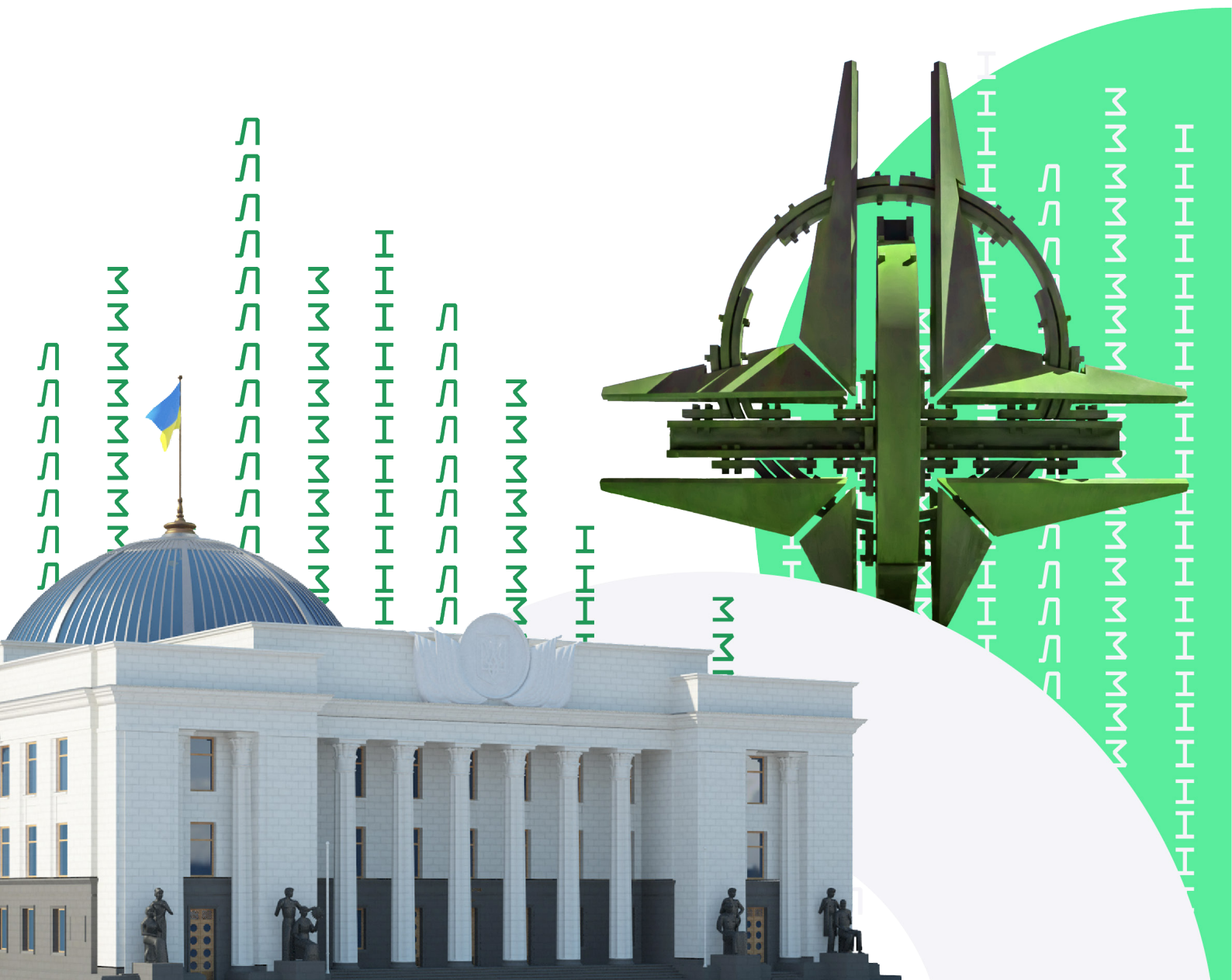


# Parliamentary Oversight of the Security and Defence Sector in the Context of Correlation of NATO and Ukrainian Norms and Practices

Green Book



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PROTECT2 Project Experts. The project promotes the goals of defense reform through a program of technical expertise and capacity transfer.  
Funded by the Department of National Defense of Canada.

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# List of Abbreviations

Verkhovna Rada, Parliament – Verkhovna Rada of Ukraine

SAIs – Supreme Audit Institutions

CAG – Comptroller and Auditor General

MSED – Main Scientific and Expert Department of the Verkhovna Rada of Ukraine

SBGS – State Border Guard Service of Ukraine

State Service for Special Communications – State Service for Special Communications and Information Protection of Ukraine

SSTS – State Special Transport Service

EU – European Union

AFU – Armed Forces of Ukraine

Committee – the Verkhovna Rada Committee on National Security, Defence and Intelligence

MoIA – Ministry of Internal Affairs of Ukraine

MoD – Ministry of Defence of Ukraine

NATO – North Atlantic Alliance, North Atlantic Treaty Organisation

NAO – National Audit Office

NGU – National Guard of Ukraine

NPU – National Police of Ukraine

President – President of Ukraine

Accounting Chamber – Accounting Chamber of Ukraine

SSU – Security Service of Ukraine

FISU – Foreign Intelligence Service of Ukraine

Special Oversight Committee – Committee of the Verkhovna Rada of Ukraine responsible for ensuring the parliamentary oversight functions of the Verkhovna Rada of Ukraine over the activities of state special purpose bodies with law enforcement functions, specialised law enforcement agencies and intelligence bodies

DSP – Department of the State Protection of Ukraine

Ombudsman – Ukrainian Parliament Commissioner for Human Rights

Government – Cabinet of Ministers of Ukraine

CAF – Canadian Armed Forces

Cour des comptes – Court of Audit/Accounting Chamber of France

DND – Department of National Defence of Canada

# Abstracts

The study provides a comprehensive analysis of parliamentary oversight as part of democratic civilian control over the security and defence sector in the context of the correlation between NATO and Ukrainian norms and practices. The authors examine in detail the individual instruments of parliamentary oversight of the security and defence sector used by the Verkhovna Rada of Ukraine and how similar instruments are applied in NATO member states. Particular attention is given to the peculiarities and challenges of implementing the instruments of parliamentary oversight over the security and defence sector in Ukraine in the context of a full-scale invasion, as well as proposed solutions to these challenges.

The study addresses the following questions:

- To what extent are the declared parliamentary oversight instruments over the security and defence sector used by the Verkhovna Rada of Ukraine and how effective are they?
- To what extent is parliamentary oversight over the security and defence sector in Ukraine limited during wartime?
- What practices of NATO member states regarding parliamentary oversight over the security and defence sector should Ukraine adopt in the future?

# Methodology

The analysis of the practice of applying the instruments of parliamentary oversight over the security and defence sector in Ukraine and their correlation with NATO standards was conducted to reflect the current state of affairs in the exercise of this function by the Verkhovna Rada of Ukraine, the associated issues, and propose solutions in accordance with NATO standards.

The research conducted for the preparation of this Green Book<sup>1</sup> is limited by:

- The timeframe: 1991-2024.
- The scope: the study focuses exclusively on parliamentary oversight (as part of democratic civilian control) over the security and defence sector.
- The international context: the study focuses exclusively on NATO member states.

To achieve this goal, the experts used desk research mechanism, conducting a systemic review of documents and other open sources, data on parliamentary oversight of the security and defence sector, in particular:

- National legislation of Ukraine (laws, acts of the President, the Government and central executive authorities, other institutions) and international legislation (treaties, resolutions, principles, etc.).
- National legislation of NATO member states and experience in its application.
- Draft normative legal acts of Ukraine.
- Research studies, reports, other analytical materials and statistical information from government and public institutions.
- Court decisions.
- Media materials and social media content on the relevant topics.

In addition, to reflect the most up-to-date information and verify certain data obtained from open sources, the experts held consultations with members of the Ukrainian Parliament, experts and other stakeholders in the field of parliamentary oversight over the security and defence sector.

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<sup>1</sup> A green book (paper) is an analytical document developed to identify and describe in detail a problem that exists in public relations and needs to be addressed, as well as to enable stakeholders to submit their proposals on how to solve such a problem (Law of Ukraine "On Lawmaking", Article 21(1)(1)).

# Summary

International experience, including the practice of NATO member states, shows that democratic civilian control over the security and defence sector is a necessary element of ensuring the stability of the state and the functioning of the democratic system. The key actors of democratic civilian control include judiciary, public oversight, the president, the government and the parliament.

One of the tasks of parliamentary oversight (as a component of democratic civilian control) is to ensure the effective functioning of the entire defence system. For the parliament, the means to achieve this objective is to control the executive bodies that are subordinated to the security and defence sector.

The instruments of parliamentary oversight in Ukraine are generally identical to their pan-European and Euro-Atlantic counterparts, but with due regard to the peculiarities of its own legal system and the power interaction model within the triangle (Parliament - Government - President). However, parliamentary oversight in Ukraine has not been able to become a reliable foundation for ensuring the desired level of efficiency of the functioning of the security and defence system of Ukraine.

The main issue with parliamentary oversight of the security and defence sector is the weak control of the Parliament over the actions of the entire Government. Weak parliamentary oversight is even weaker for the security and defence sector due to its closed nature and the peculiarities of its constitutional architecture. As a result, long-standing legislative deficiencies have not been addressed, and weak political and institutional interaction between security and defence sector stakeholders has not been resolved for a long time. The full-scale invasion of Ukraine by the Russian Federation and the associated risks have only exacerbated all these issues.

## **Problem No. 1<sup>2</sup>:**

Limited tools of parliamentary oversight over the SSU and the MoD due to the prolonged failure to adopt legislative changes:

1. Regarding parliamentary oversight over the SSU: (I) consideration of candidates for the position of the Head of the SSU at the level of a parliamentary committee before their appointment, (II) approval of the appointment of the Head of the SSU by the Verkhovna Rada of Ukraine, (III) dismissal of the Head of the SSU by the Verkhovna Rada of Ukraine in case of dissatisfaction with their performance. These provisions are included in the Draft Law No. 3196-d.
2. Regarding parliamentary oversight over the Ministry of Defence: the Minister of Defence should not only be accountable to the Verkhovna Rada but also subject to its parliamentary oversight. These provisions are included in Draft Law No. 4210.

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2 The numbering of problems does not reflect their priority or importance.

**Possible Solution:**

Reintroducing these legislative amendments into the active reform agenda of the security and defence sector, ensuring their consideration, revision, and adoption.

Developing a comprehensive approach to address cases when draft laws, including those related to the security and defence sector, remain in the long process of revision between readings, which may include establishing dialogue and cooperation between institutions, providing expert support and introducing regulatory changes.

**Problem No. 2:**

Failure to establish a special oversight committee for an extended period, whose powers should include ensuring the oversight functions of the Verkhovna Rada of Ukraine over the activities of special purpose state bodies with law enforcement functions, special purpose law enforcement agencies.

Such a committee would improve parliamentary oversight over the relevant bodies by:

1. Increasing the security level of the information transmitted by special bodies to the Parliament. This would lead to an increase in both the level of trust in Parliament and the volume of information that special purpose bodies are willing to share with Parliament.
2. Enhancing the oversight of decisions of special purpose bodies by the Parliament through expanded reporting, focusing only on the activities of special bodies, and additional scrutiny over reporting.

**Possible Solution:**

Establishment by the Verkhovna Rada of a special oversight committee<sup>3</sup>, allocating human and financial resources for its activities, and launching full-scale parliamentary oversight over special purpose bodies.

**Problem No. 3:**

Poor performance of temporary investigative and temporary special commissions due to (I) insufficient material and resource support, (II) limited powers, and (III) institutionalised practices and traditions.

The low effectiveness is manifested in (I) the lack of reports from a significant number of the TIC/TSCs, (II) the provision of ineffective recommendations, and (III) the lack of oversight over the implementation of recommendations and the results of the TIC/TSCs' work.

**Possible Solution:**

Providing the TIC/TSCs with the necessary level of material support and expanding their powers.

Introducing the practice of mandatory reporting by the TIC/TSCs on their work.

Establishing oversight over the implementation of the TIC/TSCs recommendations.

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<sup>3</sup> To control the activities of special-purpose state bodies with law enforcement functions and special-purpose law enforcement agencies.

**Problem No. 4:**

Formalism in the process of appointing civilian leaders of the Ministry of Defence of Ukraine. The positions of the Minister of Defence, their First Deputy, Deputies, and the Secretary of State<sup>4</sup> are often occupied by acting military personnel or individuals who left military service shortly before joining the MoD. The current selection process for the leadership of the Ministry of Defence of Ukraine violates the logic of civilian control over the armed forces, as such control is exercised by [former] military personnel who retain military connections, practices and patterns of behaviour. In addition to violating the logic of civilian control of the armed forces, this situation also increases corruption risks.

**Possible Solution:**

Amending legislation and practices of appointing military personnel or former military personnel to senior positions in the MoD (Minister, First Deputy Minister, Deputy Ministers, State Secretary of the Ministry). Introducing a "cooling-off period" – requiring a set period of time after retirement from the Armed Forces before an individual can assume a senior position in the MoD.

**Problem No. 5:**

Understaffing of the Accounting Chamber. Currently, the Accounting Chamber consists of 5 members, while 11 members are required for its effective functioning. This negatively affects the institutional capacity of the Accounting Chamber, one of the key parliamentary oversight mechanisms. The recent reform of the Accounting Chamber, which granted the Accounting Chamber new powers, will not be effective if the Accounting Chamber remains understaffed. Although the Accounting Chamber is a general oversight mechanism, it also helps to exercise parliamentary oversight over the security and defence sector by regularly auditing defence expenditures. Therefore, the operational deficiencies of the Accounting Chamber negatively impact the parliamentary oversight over the defence and security sector.

**Possible Solution:**

Implementation of the Law of Ukraine No. 4042-IX, especially in terms of announcing and holding the competition for the vacant positions in the Accounting Chamber as soon as possible.

**Problem No. 6:**

Lack of a unified approach to the content and form of annual reports submitted by state authorities to the Parliament. Some agencies submit formal generalised reports to the Parliament, which do not allow for effective oversight. The reports may be incomplete, uninformative, or contain only generally known information, i.e., in fact, have an arbitrary form. Such reports do not contribute to effective parliamentary oversight.

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<sup>4</sup> Ukrainian legislation allows for the appointment of even active military personnel to the post of state secretary of the Ministry of Defence. Moreover, this position is currently filled mostly by civilians. At the same time, in some NATO member states, the position of state secretary is explicitly prohibited for military personnel.

**Possible Solution:**

Developing a unified format and structure for annual reports of public authorities on the results of the implementation of relevant programme documents.

**Problem No. 7:**

Ignoring by some representatives of the security and defence sector the legal requirements of the Parliament to provide explanations, reports and responses to MPs' inquiries and appeals. There have been high-profile cases when government officials failed to appear before Parliament to report after huge scandals, such as wiretapping of journalists. Less well-known, but equally problematic, are the cases when MPs' inquiries and appeals are not ignored but are answered with formal replies. This weakens parliamentary oversight.

**Possible Solution:**

Improving the mechanism for summoning officials from the security and defence sector to provide explanations or information regarding publicly significant or high-profile cases. Introducing a unified structure for inquiries and appeals from MPs and responses from the authorities.

# I. Democratic Civilian Control over the Security and Defence Sector - Prerequisites for its Emergence and Establishment in the Ukrainian Legal Framework

Since the beginning of the full-scale invasion of Ukraine by the Russian Federation, it has become evident that not only the availability of weaponry and human resources are important for the successful defence of the state, but also the implementation of effective governance and oversight.

In 2019, Ukraine constitutionally enshrined its commitment to the European and Euro-Atlantic course<sup>5</sup>, thereby adopting the best practices and standards of the member states of the respective alliances, particularly to strengthen the security and defence sector. In the understanding of Ukrainian legislation, NATO standards refer to those developed, adopted and published by the North Atlantic Treaty Organisation.<sup>6</sup> However, in addition to NATO standards in their traditional sense (standardisation agreements and allied publications), there are also Euro-Atlantic policies, strategies, principles, norms and approaches to all spheres of state activity, including the use of the mechanism of democratic civilian control.<sup>7</sup>

The term “democratic civilian control” is well-established in the member states of the North Atlantic Alliance and the Organisation for Security and Cooperation in Europe and is referenced in a number of strategic documents of the respective organisations, albeit with some variations in terminology. For example, the NATO Membership Action Plan, adopted at the North Atlantic Council Summit in Washington on 24 April 1999 (the document outlines a general framework for accession to the Alliance), also stipulates that candidate countries will establish appropriate democratic and civilian control over their armed forces (Section I, paragraph 2, subparagraph “d”).<sup>8</sup>

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5 On Amendments to the Constitution of Ukraine (regarding the strategic course of the state towards Ukraine's full membership in the European Union and the North Atlantic Treaty Organisation): Law of Ukraine of 07.02.2019 No. 2680-VIII.

6 On the Defence of Ukraine: Law of Ukraine of 06.12.1991 No. 1932-XII, para. 22, part 1, Article 1.

7 NATO and documents: Standardisation by common principles. Ukraine to NATO: website.

8 NATO Membership Action Plan of 24.04.1999.

Ukraine and NATO share a long-standing relationship, reflected in various documents that also contain provisions on the need for our country to strengthen democratic civilian control over the armed forces and increase their interoperability with the armed forces of NATO member states and partner countries.<sup>9</sup> To implement these agreements, among others, the NATO-Ukraine Commission<sup>10</sup> operated in 1997-2023, which was later replaced by the NATO-Ukraine Council.

In addition, the Code of Conduct on Politico-Military Aspects of Security, adopted at the 91st Plenary Session of the Special Committee of the CSCE Forum<sup>11</sup> for Security Co-operation in Budapest on 3 December 1994, declared that the participating States consider democratic political control of military and paramilitary forces, internal security forces, as well as intelligence services and police, as an integral part of stability and security. They will promote the integration of their armed forces with civil society as an important manifestation of democracy (Section VII, para. 20).<sup>12</sup>

In Ukraine, democratic civilian control was first regulated at the legislative level in 2003 with the adoption of the Law of Ukraine "On Democratic Civilian Control over Military Organisation and Law Enforcement Agencies of the State".<sup>13</sup> The draft law itself was developed by the Ministry of Defence of Ukraine (MoD) with the objective of "ensuring public oversight of military formations and law enforcement agencies, aligning with Ukraine's international obligations and the standards of a democratic state".<sup>14</sup>

In 2018, President of Ukraine Petro Poroshenko initiated the adoption of the Law of Ukraine "On National Security of Ukraine" (hereinafter - the "Law on National Security") before the Parliament. According to the Head of State, the separation of the Law of Ukraine "On the Fundamentals of National Security of Ukraine" and the Law of Ukraine "On Democratic Civilian Control over the Military Organisation and Law Enforcement Agencies of the State", was unjustified, since ensuring democratic civilian control is an integral part of the implementation of the state policy in the field of national security.<sup>15</sup> Moreover, the Law on National Security adopted in June 2018 once again enshrined the legal framework and principles of the state policy in the field of national security and defence, fundamental national interests of Ukraine, including ensuring state sovereignty and territorial integrity, Ukraine's integration into the European political, economic and legal space, and membership in the EU and NATO.<sup>16</sup>

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9 Partnership for Peace Framework Document, para. "b) para. 3. Charter on a Distinctive Partnership between Ukraine and the North Atlantic Treaty Organisation of 09.07.1997, para. II.

10 The highest collective body that makes decisions on the development of relations between Ukraine and NATO and directs activities in terms of practical cooperation.

11 Conference on Security and Co-operation in Europe, since 1995 the Organisation for Security and Co-operation in Europe (OSCE).

12 Code of Conduct on Politico-Military Aspects of Security of 03.12.1994.

13 On Democratic Civilian Control over the Military Organisation and Law Enforcement Agencies of the State: Law of Ukraine of 19.06.2003 No. 975-IV.

14 Session of the Verkhovna Rada of Ukraine of 05.03.2003 No. 15.

15 Explanatory Note to the Draft Law of Ukraine "On National Security of Ukraine", Reg. No. 8068 of 28.02.2018.

16 On the National Security of Ukraine: Law of Ukraine of 21.06.2018 No. 2469-VIII, clause 5, part 1, Article 1.

Under current Ukrainian legislation, **democratic civilian control** refers to a set of legal, organisational, informational, personnel and other measures carried out in accordance with the Constitution and laws of Ukraine to ensure the rule of law, legality, accountability and transparency of the security and defence sector bodies and other agencies whose activities are related to the restriction of human rights and freedoms in cases determined by law, to facilitate their effective operation and performance of their functions, to strengthen the national security of Ukraine.

Among the components of the system of democratic civilian control, the most cited is the control exercised by:

- Parliament;
- Government;
- Judiciary;
- President;
- Local self-government bodies;
- Society (public oversight).

The exercise of control over the armed forces and other law enforcement agencies by all these actors is one of the elements of ensuring the security of the state, as well as the interaction of the latter with society.

This Green Paper is dedicated to the implementation of parliamentary oversight in the security and defence sector, using the example of Ukraine and NATO member states.

## II. Parliamentary Oversight in the Security and Defence Sector: Theoretical Aspects

Parliamentary oversight of the security and defence sector is an integral part of the democratic civilian control system. Regardless of how efficiently the security and defence system as a whole or the bodies implementing the relevant policies are built, their activities must still be subject to legislative oversight to ensure that the system operates in accordance with the legal requirements and does not violate constitutional rights and freedoms.

Ukrainian scholar U. Ilnytska notes that parliamentary oversight in the security and defence involves the establishment of a system of restrictions to prevent the misuse of the armed forces for unconstitutional purposes, as well as prohibit political activity and functioning as an independent political entity.<sup>17</sup> In other words, by exercising oversight function, the Parliament can, on the one hand, prevent the use of the security and defence sector for illegal purposes by the president or the government to usurp power, and on the other hand, minimise the risk of a military takeover of power.<sup>18</sup>

The principles and procedures governing parliamentary oversight mechanisms are contained in NATO norms and principles, as well as in the legislation of NATO member states. For Ukraine, as a potential member of the Alliance, ensuring effective oversight by the Verkhovna Rada of Ukraine over the security and defence sector is a crucial task.

As of today, there is no single definition of “parliamentary oversight” in international or national legislation. However, parliamentary oversight as a phenomenon of the political process in democratic countries is the subject of constant expert and scientific research.<sup>19</sup>

For example, Ukrainian scholar M. Trebin proposed to interpret **parliamentary oversight over the security and defence sector** as a set of supervisory and governance measures carried out in accordance with the Constitution, involving representative state bodies

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17 Ilnytska U. Parliamentary Oversight over the Security and Defence Sector: Essence and Mechanisms of Implementation in a Democratic Society // Ukrainian National Idea: Realities and Prospects for Development. 2009. Issue 21. P. 82.

18 For example, in July 2016, an attempted military coup took place in Turkey, which resulted in several hundred deaths, more than 3,000 military personnel being detained, and numerous state-owned properties being destroyed. Both the President of Turkey, Recep Tayyip Erdogan, and the government, as well as the parliament (the Grand National Assembly of Turkey) played an important role in stopping the military from usurping power. The parliament, whose building was also attacked and damaged, held an emergency extraordinary session during which all four factions (both pro-government and opposition) condemned the attempted military coup.

19 Cited by: Savka I. I. Parliamentary oversight as the basis of civilian control over the security and defence sector of the state // Mechanisms of public administration. 2019. Issue 12. P. 65.

(together with CSOs) aimed at monitoring the implementation of the provisions of the state defence doctrine, military policy, optimal and rational spending of budget funds, protection of the rights and freedoms of military personnel and civilian specialists, their social and legal rights to ensure the effective functioning of the entire national defence system.

The Law on National Security specifies that the security and defence sector includes the following entities:

- Ministry of Defence of Ukraine (MoD);
- Armed Forces of Ukraine (AFU);
- State Special Transport Service;
- Ministry of Internal Affairs of Ukraine (MoIA);
- National Guard of Ukraine (NGU);
- National Police of Ukraine (NPU);
- State Border Guard Service of Ukraine (SBGS);
- State Migration Service of Ukraine (SMS);
- State Emergency Service of Ukraine (SES);
- Security Service of Ukraine (SSU);
- Anti-Terrorist Centre under the SSU;
- Judicial Protection Service;
- Department of the State Protection of Ukraine (DSP);
- State Service for Special Communications and Information Protection of Ukraine (State Service for Special Communications);
- Secretariat of the National Security and Defence Council of Ukraine;
- Ukrainian intelligence agencies (*Foreign Intelligence Service of Ukraine (FISU), Main Intelligence Directorate of the MoD<sup>20</sup>, and Intelligence Directorate of the Administration of the State Border Guard Service<sup>21</sup>*);
- the central executive body responsible for shaping and implementation of the state military-industrial policy<sup>22</sup> (*currently, the Ministry for Strategic Industries of Ukraine*).

The specifics of parliamentary oversight over intelligence are also regulated by the Law of Ukraine "On Intelligence"<sup>23</sup>, for example, the establishment of a special parliamentary committee.

Given that the mechanism of parliamentary oversight is being improved every year in line with international practice, the analysis of Ukrainian and international legislation indicates that the parliamentary oversight instruments in any democratic country are generally the

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20 Intelligence agency of the Ministry of Defence of Ukraine.

21 An intelligence agency of the central executive body that implements state policy in the field of state border protection.

22 On the National Security of Ukraine: Law of Ukraine of 21.06.2018 No. 2469-VIII, part 2, Article 12.

23 On Intelligence: Law of Ukraine of 17.09.2020 No. 912-IX.

same. The only difference may be in the way these instruments are implemented, the peculiarities of the functioning of the security and defence system in the country, and the limits established by national legislation.

The Geneva Centre for the Democratic Control of the Armed Forces (DCAF)<sup>24</sup> defines **the tools for parliamentary oversight of the security and defence sector**. To gain a deeper understanding of these tools, it is worth considering how they have been implemented in Ukrainian legislation.

Tools of parliamentary oversight over the security and defence sector under the DCAF	Tools of parliamentary oversight over the security and defence sector according to the Constitution and laws of Ukraine
<p><b>Legislative powers:</b></p> <ul style="list-style-type: none"> <li>➤ Setting the legal framework for oversight.</li> <li>➤ Influencing government policy on a broad level.</li> </ul>	<p><b>Legislative powers:</b></p> <ul style="list-style-type: none"> <li>➤ Adoption of laws that define the foundations of national security, the principles of defence of Ukraine, the organisation of its Armed Forces, the functioning of security and defence institutions and their powers.</li> <li>➤ Defining the principles of domestic and foreign policy, implementing the strategic course of the state for Ukraine's full membership in the EU and NATO.</li> </ul>
<p><b>Budget control:</b></p> <ul style="list-style-type: none"> <li>➤ Oversight/verification of the respect of the allocated funds.</li> <li>➤ Sanctions in case of excess/illegitimate conduct by the executive.</li> </ul>	<p><b>Budget control:</b></p> <ul style="list-style-type: none"> <li>➤ Approving budget allocations and decision making on expenditure reports.</li> <li>➤ Accounting Chamber:               <ol style="list-style-type: none"> <li>1) provides recommendations to the Government regarding the prosecution of individuals responsible for violating the law, misuse of funds or inefficient expenditures, or causing financial damage to the state;</li> <li>2) if signs of criminal or administrative offences are identified during state external financial control (audit) activities, it reports them to the Bureau of Economic Security of Ukraine and other relevant law enforcement agencies.</li> </ol> </li> </ul>

<sup>24</sup> Born H. Parliamentary Oversight of the Security Sector / Hans Born // European Parliament – OPPD. 2013. P. 25.

**Direct oversight:**

- Oversight organs:
  - Parliamentary committee(s).
  - Independent oversight bodies to assist parliament.
- Involvement in important decisions:
  - Prior approval in case of: foreign missions, war, state of emergency, international treaties.
  - A posteriori control of decisions (with the possibility to revoke or substitute). Through various oversight mechanisms (hearings, inquiries, questions, visits to troops, etc.), parliament can monitor the way in which executive policies and decisions, sanctioned by parliament itself as appropriate, are carried out. In practice, such oversight may result in the parliament's revocation of illegal government decisions or to resort to impeachment procedures.
  - Appointment of senior officials.
  - Oversight over defence procurement.

**Direct oversight:**

- Oversight organs:
  - Establishment of parliamentary committees, including the Committee on National Security, Defence and Intelligence.
  - Oversight over the observance of constitutional rights and freedoms by the Ukrainian Parliament Commissioner for Human Rights, and over the targeted use of budget funds by the Accounting Chamber of Ukraine.
- Participation in adopting important decisions:
  - Declaration of war and conclusion of peace upon presidential request; approval of decisions to provide military assistance to other states, to send units of the Armed Forces of Ukraine to another state or to allow units of the armed forces of other states to enter the territory of Ukraine; approval of presidential decrees on the introduction of martial law or a state of emergency in Ukraine or certain areas of Ukraine; granting legal consent to the ratification and denunciation of international treaties of Ukraine.
  - Reviewing the accountability of the Cabinet of Ministers of Ukraine, including the adoption of a vote of no confidence in the Cabinet of Ministers of Ukraine by a constitutional majority of the Verkhovna Rada (based on the proposal of the President or at least one third of the MPs of Ukraine from the constitutional composition of the Verkhovna Rada). However, the Verkhovna Rada is not empowered to unilaterally annul or suspend government acts.
  - Appointment and dismissal of the Prime Minister of Ukraine, the Minister of Defence of Ukraine, other members of the Government, and the Head of the Security Service of Ukraine.
  - Approval of annual and three-year defence procurement plans by the

➤ Access to (classified) information:

- 'Obtaining document/Proactive disclosure - the more relevant information parliament has at its disposal, the better it will be able to perform its functions. However, parliament's requirement to be sufficiently informed is particularly difficult to meet in the case of the security sector, given the requirements of secrecy. Therefore, there is a balance to be struck between the parliament's right to access information and confidentiality requirements.
- Summons/Hearings - the parliament has the right to summon ministers or other senior officials to testify before parliament and to hold parliamentary hearings on security sector issues.
- Information/Consultation - in some countries, the executive systematically informs and/or consults parliament before taking important decisions.

Verkhovna Rada Committee on National Security, Defence and Intelligence; analysis and summary of the practice of applying defence procurement legislation to identify corruption factors and improve legislation.

➤ Access to (classified) information:

- MPs of Ukraine have the right to access any confidential and secret information related to their parliamentary activities. However, when an MP requires information in connection with the performance of their duties in the special oversight committee<sup>25</sup>, they must undergo a security clearance procedure before accessing state secrets.
- The Verkhovna Rada reviews annual written reports of the Cabinet of Ministers of Ukraine, the Security Service of Ukraine, and Department of the State Protection of Ukraine on the activities of the security and defence sector; holds parliamentary hearings on national security and defence issues of public interest that require legislative regulation; officially invites or summons officials or employees of the security and defence sector to provide explanations at plenary sessions of the Verkhovna Rada, etc.
- The Cabinet of Ministers of Ukraine informs the Verkhovna Rada about its activities in the field of national defence during the "Government Question Hour", and in committee meetings related to the security and defence. In addition, the Verkhovna Rada is authorised to approve the Programme of Activities of the Cabinet of Ministers of Ukraine for the term of its office, which should

<sup>25</sup> The committee that oversees the activities of special purpose bodies with law enforcement functions, special purpose law enforcement agencies and intelligence agencies.

<ul style="list-style-type: none"> <li>• Secrecy safeguards - in the parliamentary practice of different countries, there are mechanisms that govern parliamentarians' access to confidential information.</li> </ul> <p>➤ Investigative powers.</p>	<p>include provisions on national security and defence.<sup>26</sup></p> <ul style="list-style-type: none"> <li>• MPs are granted access to state secrets after signing a written commitment to confidentiality, and in specific cases, following a security clearance procedure.</li> </ul> <p>➤ Investigative powers - creation of temporary investigative commissions to conduct investigations into matters of public interest. Additionally, the Verkhovna Rada may also establish temporary special commissions to study, prepare and conduct preliminary reviews of specific sector-related issues.</p>
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The following sections will discuss these instruments of parliamentary oversight in the context of international experience and their implementation in Ukrainian practice.

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<sup>26</sup> The last time the Verkhovna Rada approved the Programme of Activities of the Cabinet of Ministers of Ukraine was in October 2019, during the term of Prime Minister Oleksii Honcharuk. In March 2020, Denys Shmyhal was appointed Prime Minister of Ukraine, and a new Government was formed. During 2020-2021, the Government repeatedly submitted drafts of its Programme of Activities to the Verkhovna Rada for approval, which were returned by the Parliament for revision. Thus, for the past five years, the Government of Ukraine has been exercising its powers without a Programme of Activities of the Cabinet of Ministers of Ukraine approved by the Parliament.

# III. Parliamentary Oversight Tools: International Practice and Ukrainian Implementation

## 1. Legislative Powers of the Parliament in Terms of Parliamentary Oversight

Parliamentary oversight is closely linked to the legislative activity of the Parliament and contributes to the improvement of legal regulation of social interactions in the areas of national security and defence.<sup>27</sup> Consideration and adoption of legislative acts, including those related to security and defence, is one of the core functions of the legislative body of any country. It is through the adoption of legislative acts that the Parliament defines the principles of Ukraine's security and defence policy, establishes the instruments and limits of its own oversight function, as well as of other actors involved in democratic civilian control.

For example, through the adoption of the Law on National Security by the Verkhovna Rada:

- › Defined which state entities are part of the security and defence sector and clarified their legal status (list of key powers, appointment and dismissal procedures for their leadership, accountability to higher authorities, etc.).
- › Specified strategic documents that must outline threats to Ukraine's national security and state policy priorities in the relevant area (the National Security Strategy of Ukraine, the Military Security Strategy of Ukraine, the Strategic Defence Bulletin of Ukraine, etc.), and the procedure for their development and adoption.
- › Introduced the requirement that the senior leadership of the Ministry of Defence must be appointed from among civilian personnel.

Budgetary allocations to the security and defence sector are made based on the Law on State Budget for the respective year adopted by the Parliament. The laws also determine the requirements for social and pension provision for military personnel, employees and other individuals covered by the security and defence legislation.<sup>28</sup>

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<sup>27</sup> Parliamentary oversight as the basis of democratic civilian control over the security and defence sector of Ukraine // Proceedings of the First All-Ukrainian Scientific and Practical Conference "Parliamentary Control in the Context of Decentralisation of State Power and Digital Transformation in Ukraine: Status and Problems". 30.03.2021. P. 45.

<sup>28</sup> A list of legislative acts in the security and defence sector adopted by the Verkhovna Rada is provided in Annex 1.

As of 3 February 2025, a total of 7299 draft laws (462 related to security and defence) were registered during 12 sessions of the Verkhovna Rada of the IX convocation, of which 1401 were adopted (131 related to security and defence). However, there are cases where the Parliament fails to adopt decisions important for the state policy in the field of security and defence for several years. For example, as of today, due to internal debates and conflicting views among MPs, central executive authorities, experts and other stakeholders, draft laws No. 4210<sup>29</sup> and No. 3196-d<sup>30</sup> have not been adopted since 2020. These two draft laws are currently the most significant legislative initiatives in the field of democratic civilian control.

**Draft Law No. 4210**, adopted as a basis in early 2022, proposes comprehensive amendments to the legislation governing security and defence, including the Law on National Security. Draft Law No. 4210 proposes to:

- introduce new terminology into the Law on National Security (e.g., “accountability in the security and defence sector” and a new definition of “democratic civilian control”);
- update approaches to the appointment of military leaders, their accountability and oversight:
  - the Minister of Defence would be not only accountable to the Verkhovna Rada, but also subject to parliamentary oversight;
  - the Commander-in-Chief of the Armed Forces would be subordinate, accountable and subject to oversight by the Minister of Defence (the current version of the Law on National Security only provides for accountability to the President and the Minister of Defence on a specific range of issues).<sup>31</sup>

It is the wording of the last provision that some members of the Verkhovna Rada Committee on National Security, Defence and Intelligence believe is one of the reasons for the delay in considering Draft Law No. 4210 in the second reading.<sup>32</sup>

The EU integration-focused **Draft Law No. 3196-d** was adopted as a basis in 2021 and has since been undergoing revision in the Verkhovna Rada committees. The provisions of this draft law are aimed at reforming the SSU by:

- optimising the organisational and personnel structure and delegating certain functions to other bodies;
- strengthening parliamentary oversight over its activities:
  - a parliamentary committee interviewing a candidate before appointing to the position of the head of the SSU;

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29 On Amendments to Certain Legislative Acts of Ukraine on National Security and Defence to Strengthen Democratic Civilian Control over the Armed Forces of Ukraine, Improve Joint Command of the State Defence Forces and Planning in the Spheres of National Security and Defence: Draft Law of Ukraine, registration No. 4210 of 12.10.2020.

30 On Amendments to the Law of Ukraine “On the Security Service of Ukraine” on Improving the Organisational and Legal Framework of the Security Service of Ukraine: Draft Law of Ukraine, registration No. 3196-d of 10.03.2020.

31 On the National Security of Ukraine: Law of Ukraine of 21.06.2018 No. 2469-VIII, para. 2, part 3, Article 16.

32 Does the Draft Law No. 4210-d hit Chief Executive Zaluzhnyi? Dzerkalo Tyzhnia. 2023.

- dismissal by the Verkhovna Rada of the Head of the SSU if their performance is found to be unsatisfactory based on the results of the annual activity report of the SSU (provided they have served for at least one year).

The provisions of the draft law directly state that the Verkhovna Rada is responsible for adopting laws that define and regulate the activities and powers of the SSU, as well as for approving the relevant budget allocations and reviewing expenditure reports.

As of today, despite numerous amendments and proposals processed during the preparation of Draft Law No. 3196-d for its second reading, it remains unaddressed. According to a member of the Verkhovna Rada Committee on National Security, Defence and Intelligence<sup>33</sup>, discussions are still ongoing around certain provisions of the draft law, in particular, the mechanism for conducting counterintelligence activities and possible human rights violations associated with it.

The issue of prolonged delays in the consideration of draft laws by the Verkhovna Rada after their adoption in the first reading is not exclusive to the security and defence sector. According to the results of the 11th session of the Verkhovna Rada of the IX convocation, the average time between the first reading of draft laws and their adoption in the second reading was 181 days.<sup>34</sup> While for 20% of the draft laws, this period exceeded 300 days. This only includes draft laws that were eventually adopted. Dozens of other draft laws adopted in the first reading as a basis have been waiting for years to be considered in the second reading. As a result, they lose relevance, and some of their provisions become outdated.

Some NATO member states are trying to counteract the delay in drafting legislation by limiting the timeframe for preparing important draft laws after their adoption in the first reading as a basis.

#### ***How it works in NATO members states***

According to the Rules of Procedure of the **Croatian** Sabor<sup>35</sup>, the initiator must submit the final draft law within six months from the date of adoption of the draft law in the first reading. If the initiator fails to meet this deadline, the process of adopting the law will be considered terminated.

Given the Ukrainian parliamentary practice, there are certain risks of introducing such innovations, namely:

1. The introduction of a deadline for the preparation of draft laws for the second or third reading does not guarantee compliance with these requirements. In accordance with the Rules of Procedure of the Verkhovna Rada, proposals and amendments to a draft law being prepared for the second reading must be submitted within 14 days from

<sup>33</sup> Venislavskyi: New version of the law on the SSU is 95% ready for consideration by the Verkhovna Rada in the second reading. Ukrinform. 2023.

<sup>34</sup> Monitoring of the work of the Verkhovna Rada of the 11<sup>th</sup> session of the IX convocation. Agency for Legislative Initiatives. 2024. P. 37.

<sup>35</sup> Regulation of the Croatian Sabor of 2020, Articles 145-151, Chapter V, Part 7.

the date of its adoption as a basis.<sup>36</sup> However, even if the draft law is included in the session agenda, this does not ensure its swift consideration. The relevant decision is made at a meeting of the Conciliation Board of parliamentary factions (deputy groups).

2. The introduction of any legislative restrictions, even with good intentions, may eventually lead to their deliberate disregard by those subject to them. For example, according to the monitoring of the Verkhovna Rada's work by the Agency for Legislative Initiatives, during the 11th session of the IX convocation of the Verkhovna Rada, up to 53% (more than half) of laws were adopted with procedural violations.<sup>37</sup>
3. There is a justified concern that, under such conditions, key draft laws will be primarily adopted in the first reading and as a basis (which will lead to a deterioration in their quality), due to fears of their potential blocking by opposition during preparation for the second reading. For instance, to delay the preparation of draft laws for the second or third reading and violate the deadlines, MPs may resort to parliamentary obstruction.<sup>38</sup>

A separate mention should be made of laws that the Parliament adopts essentially to give legal effect to individual decisions taken by the President or the Government, for example, on:

- 1) ratification and denunciation of international treaties (as of 20 January 2025, the Parliament of the IX convocation adopted 171 laws, 8 of which related to security and defence);
- 2) the introduction of a state of emergency or martial law (since 24 February 2022, the Parliament has voted 13 times to introduce (extend) martial law), the announcement of general and partial mobilisation, and the use of the Armed Forces;
- 3) providing military assistance to other states and sending units of the Armed Forces of Ukraine to another state, etc. However, due to the outbreak of Russia's full-scale invasion, all national contingent and national personnel who participated in international peacekeeping and security operations were recalled to Ukraine to contribute to the defence of the national sovereignty and territorial integrity of the state.<sup>39</sup>

## 2. Committees Activities to Ensure Oversight Over the Security and Defence Sector Agencies

The primary parliamentary committee responsible for *oversight in the fields of national security and defence; democratic civilian control; legislative support for the activities of relevant bodies, in particular, the implementation of NATO principles and standards and achievement*

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36 On the Rules of Procedure of the Verkhovna Rada of Ukraine: Law of Ukraine of 10.02.2010 No. 1861-VI, part 1, Article 116.

37 Monitoring of the work of the Verkhovna Rada of the 11<sup>th</sup> session of the IX convocation. Agency for Legislative Initiatives. 2024. P. 10.

38 Parliamentary obstruction in the world and in Ukraine. Agency for Legislative Initiatives. "PARLIAMENT" Journal. 2021-2022. Issue 1. P. 31.

39 On the recall of the national contingent and national personnel participating in international peacekeeping and security operations: Decree of the President of Ukraine of 07.03.2022 No. 114.

of the criteria necessary for Ukraine's NATO membership, etc. is the **Committee on National Security, Defence and Intelligence** (the Committee).

The Committee's activities include the following:

- developing, reviewing and facilitating the adoption of draft laws aimed at improving public policies in the relevant area. For instance, during the IX convocation of the Verkhovna Rada, the Committee served as a primary body responsible for preparing and reviewing 455 draft laws<sup>40</sup>, of which 126 were adopted by the Parliament as a basis;
- approving annual and three-year defence procurement plans for goods, works and services;
- conducting hearings with candidates for the positions of Minister of Defence, Head of the Security Service of Ukraine and Minister of Internal Affairs before their appointment;
- reviewing reports, statements and information at its meetings or hearings from state bodies and officials submitted to the Verkhovna Rada in cases provided for by law, and other measures provided for by law.

For example, few weeks before the full-scale invasion, the Committee heard information from the FISU, Main Intelligence Directorate of the MoD, and Intelligence Directorate of the Administration of the SBGS, and the SSU on the current security situation in Ukraine, as well as on the status of SSU reform.<sup>41</sup> These closed-door briefings continue to take place during Committee meetings today.<sup>42</sup>

The Committee consists of 9 subcommittees<sup>43</sup> with a focus on specific institutions or areas of activity<sup>44</sup>, including the Subcommittee on Democratic Civilian Oversight and Control (established on 1 November 2023).

One of the long-standing concerns raised by civil society has been the Committee's limited transparency<sup>45</sup> compared to other committees and the mode of operation of this Committee in connection with the introduction of martial law. However, such confidentiality was justified in the context of the full-scale invasion, given the sensitive nature of the information handled by the Committee. While at the beginning of the invasion, information about the Committee's activities was fragmented, now its official website at least provides information about past meetings and their agendas. Additional information can also be obtained from the news feeds of public authorities and from the publications of some MPs who are members of the Committee. For example, the last mention of a hearing before the Committee, according to its

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40 As of 20 January 2025.

41 The Committee on National Security, Defence and Intelligence heard information on the current security situation in Ukraine. Verkhovna Rada of Ukraine. 2023.

42 For example, the meeting of the Verkhovna Rada of Ukraine Committee on National Security, Defence and Intelligence on 03.04.2024.

43 As of 20 January 2025.

44 Issues within the competence of the subcommittees of the Verkhovna Rada Committee on National Security, Defence and Intelligence. Committee of the Verkhovna Rada of Ukraine on National Security, Defence and Intelligence. 2024.

45 Access Granted. The 2024 Parliamentary Committees Openness Rankings. Glavkom. 2024.

official website, was in January 2018. The agenda of the Committee's hearing then focused on Ukraine's alignment with NATO standards.<sup>46</sup> Instead, in the summer of 2023, MPs from other committees informed the public about joint committee hearings on maritime security and freedom of navigation in the Azov-Black Sea basin.<sup>47</sup> At the same time, at the end of October 2024, the situation changed dramatically, as the Committee's Facebook page<sup>48</sup> was completely updated and now contains up-to-date information on the Committee's activities.

In 2020, by adopting the Law of Ukraine "On Intelligence", the Verkhovna Rada provided for the establishment of a *Special Oversight Committee*. The powers and composition of the Special Oversight Committee are outlined in a separate article of the Law of Ukraine "On Committees of the Verkhovna Rada of Ukraine". For example, the Special Oversight Committee may hold closed meetings and initiate the establishment of temporary investigative commissions of the Verkhovna Rada on matters within its competence. This has led to a debate over who should perform the relevant functions - the Committee on National Security, Defence and Intelligence (which has a subcommittee with the same name) or a separately established oversight committee?

The issue of establishing a Special Oversight Committee, according to both some experts and representatives of public authorities, is directly linked to Article 89 of the Constitution of Ukraine, which defines the provisions for the establishment and operation of the Verkhovna Rada committees, while not explicitly providing for the establishment of a committee with an exclusive oversight function. According to part one of this Article, committees are established by the Verkhovna Rada to engage in legislative drafting, prepare and conduct preliminary reviews of matters within its jurisdiction, and perform oversight functions in accordance with the Constitution of Ukraine. At the same time, pursuant to Article 11 of the Law of Ukraine "On Committees of the Verkhovna Rada of Ukraine", the oversight function is one of several functions (alongside with the legislative and organisational ones) assigned to all committees of the Verkhovna Rada within their designated areas of jurisdiction.

Supporters of this position also refer to the Decision of the Constitutional Court of Ukraine of 10 June 2010 № 16-rp/2010<sup>49</sup>, which states that the Fundamental Law of Ukraine does not grant committees independent oversight powers, they may only assist the Verkhovna Rada in exercising its powers of parliamentary oversight by performing certain auxiliary (informational, expert, analytical, etc.) tasks. The above is consistent with the legal stance of the Constitutional Court of Ukraine, which holds that committees are not independent entities of parliamentary oversight. They are involved in its implementation only at the stage of preparation and preliminary review of issues falling within the scope of parliamentary oversight by the Verkhovna Rada.

At the same time, in February 2023, the Verkhovna Rada clarified the jurisdiction of the Committee, removing from its scope issues related to the *organisation and activities of security,*

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46 Hearings of the 8<sup>th</sup> Convocation. Committee of the Verkhovna Rada of Ukraine on National Security, Defence and Intelligence.

47 Publication of Klymenko Y. in Facebook on 13 June 2023.

48 Facebook page of the Verkhovna Rada Committee on National Security, Defence and Intelligence.

49 Decision of the Constitutional Court of Ukraine of 10.06.2010 No. 16-rp/2010, para. 3.1 of the Reasoning Section.

*intelligence and counterintelligence* bodies.<sup>50</sup> Instead, the Verkhovna Rada in its Resolution<sup>51</sup> introduced new wording in terms of the Committee's powers, including “*legislative support for the activities of the security and defence sector bodies, including the implementation of the principles and standards of the North Atlantic Treaty Organisation (NATO) and the achievement of the criteria necessary for Ukraine’s NATO membership*” and “*democratic civilian oversight*”.

This suggests that the Special Oversight Committee mentioned in the Law of Ukraine “On Intelligence” is in fact the Verkhovna Rada Committee on National Security, Defence and Intelligence. However, the Law of Ukraine “On Committees of the Verkhovna Rada of Ukraine” clearly states that the Special Oversight Committee must consist of an odd number of members. Instead, as of 20 January 2025, the Committee consists of 20 MPs.<sup>52</sup> In addition, the same law stipulates that *the requirements for committee members and secretariat staff, as well as the procedure for organising and passing the inspection, the frequency of such inspection and the procedure for appealing its results, must be determined by the Verkhovna Rada of Ukraine*. However, no regulatory act has been adopted by the Parliament to establish such requirements.

Therefore, to avoid ambiguous interpretation of the law and further disputes over the functioning of the Special Oversight Committee, the current regulatory framework should be reviewed, and the existing legal conflict should be resolved.

#### **How this works in NATO member states**

Unlike the Ukrainian practice, where the Committee oversees the entire security and defence sector, including intelligence, EU and NATO member states follow different models. In this regard, it is worth mentioning the Parliamentary Assembly of the Council of Europe Recommendation 1713 (2005)<sup>53</sup>, which stipulates that each parliament should have an appropriately functioning specialised committee for the supervision of intelligence (special) services. The minimum necessary scope of their powers should include supervision over the use of budgetary funding for intelligence services.

The **German** Bundestag has two separate committees in the field of security and defence: The Defence Committee and the Parliamentary Oversight Committee. The Defence Committee exercises parliamentary oversight over the activities of the Federal Ministry of Defence and its subordinate institutions and agencies. It plays an important role in approving the defence budget and procurement of weapons and supplies for the Bundeswehr. As a specialised committee, it can also deal with the special services. If necessary, it has the authority to initiate parliamentary investigations on issues within its jurisdiction, with the powers of an investigative commission.

Alongside this, the Parliamentary Oversight Committee (Parlamentarische Kontrollgremium (PKGr)) plays a central role in supervising the activities of the Germany’s special

50 On Amendments to the Annex to the Resolution of the Verkhovna Rada of Ukraine “On the List, Quantitative Composition and Subjects of Competence of the Committees of the Verkhovna Rada of Ukraine of the Ninth Convocation”: Resolution of the Verkhovna Rada of Ukraine of 23.02.2023 No. 2929-IX, para. 2, para. 1.

51 Ibid.

52 Committee on National Security, Defence and Intelligence. Verkhovna Rada of Ukraine.

53 Democratic oversight of the security sector in member states: Recommendation PACE 1713 (2005), clause 13.

services (Federal Intelligence Service, Military Counterintelligence Service and Federal Office for the Protection of the Constitution).<sup>54</sup> Its existence is enshrined not only in a special legislation<sup>55</sup>, but also directly in the Basic Law (Article 45d)<sup>56</sup>. The federal government is obliged to provide the committee with comprehensive information on the overall activities of the intelligence services and on matters of particular importance, and any other issues the committee requests. The committee meets quarterly in closed sessions, however once a year it conducts a public hearing with the heads of the intelligence services on compliance with the requirements for the protection of classified information. At the same time, the committee reports on its oversight activities to the Bundestag at least in the middle and end of its term.

The Committee on Security and Defence of **Montenegro** exercises parliamentary oversight over the work of the police, the Armed Forces of Montenegro, the National Security Agency, and other security agencies and services; provides opinions on proposals to appoint the senior staff of military intelligence, counterintelligence and security services in the Ministry of Defence; reviews matters related to the protection of constitutional rights and freedoms in the exercise of the powers of these institutions, etc.<sup>57</sup>

The National Assembly of **Poland** consists of two chambers - the upper chamber (Senate) and the lower chamber (Sejm) - within which permanent commissions<sup>58</sup> operate to address various state policy areas. For example, the Senate currently has the National Defence Commission<sup>59</sup>, which deals with national defence and security, the arms industry, and the activities and functioning of the armed forces. This commission consists of seven parliamentarians.

Meanwhile, the Sejm has two separate commissions dealing with defence and activities of special services. The National Defence Commission currently consists of 44 MPs. The scope of this commission's activities includes the defence of the state, in particular the activities of the armed forces; the system and operation of the country's territorial defence and civil protection; the fulfilment of obligations related to strengthening national defence by state authorities and state-owned enterprises, cooperatives, public organisations, and citizens, as well as the activities of defence industry enterprises.

The activities of the Commission on Special Services are directly outlined in the Rules of Procedure of the Sejm of the Republic of Poland.<sup>60</sup> This commission may consist of no more than seven MPs, whose candidacies are submitted to the Marshal of the Sejm by the leaders of parliamentary factions or a group of at least 35 MPs. Committee meetings are held behind closed doors, and access to classified information is regulated by a separate law. In matters related to special services (Internal Security Agency, Intelligence Agency, Military Counterintelligence Service, Military Intelligence Service and Central Anti-Corruption Bureau), the commission participates in the review of draft laws

54 Parlamentarisches Kontrollgremium (PKGr).

55 Gesetz über die parlamentarische Kontrolle nachrichtendienstlicher Tätigkeit des Bundes (Kontrollgremiengesetz - PKGrG).

56 Basic Law of the Federal Republic of Germany of 23.05.1949.

57 Security and Defence Committee. Parliament of Montenegro.

58 Same as the Committee.

59 Komisja Obrony Narodowej.

60 Regulations of the Sejm of the Republic of Poland of 30.07.1992, Articles 137-142.

on the budget and other state financial plans, as well as in the review of reports on their implementation, and provides its conclusions and recommendations to the relevant commissions.

The experience of **Norway** presents an interesting case. The Storting (Norwegian Parliament) consists of 12 standing committees, including the Committee on Foreign Affairs and Defence (responsible for military defence matters) and the Standing Committee on Scrutiny and Constitutional Affairs (which monitors government compliance with decisions made by the Storting; reviews reports and documents, and examines matters submitted, in particular, by the EOS Committee, the intelligence oversight body, and the Storting's Ombudsman for the Armed Forces). At the same time, the aforementioned EOS Committee<sup>61</sup> was established by the Storting for the continuous oversight of the Norwegian Intelligence Service, the Norwegian Police Security Service, the Norwegian National Security Authority and the Norwegian Defence Security Department, collectively known as the EOS services. Unlike the Standing Committees, the EOS Committee consists of seven members appointed by the Storting from among academics, former parliamentarians or government officials. All members of the EOS Committee have the highest level of security clearance (with some exceptions) in accordance with national regulations NATO standards. While the EOS Committee operates independently of the Storting, it remains accountable to the Parliament.

The Committee on Anti-Corruption Policy, the Committee on Law Enforcement, the Committee on Social Policy and Protection of Veterans' Rights, the Committee on Foreign Policy and Interparliamentary Cooperation, and the Committee on Budget are also involved in parliamentary oversight in their respective areas. For example, the Committee on Law Enforcement plays a significant role in the parliamentary oversight of the security and defence sector, as it is responsible for matters related to military justice, as well as the organisation and operation of some security and defence institutions, such as the National Police, the National Guard, the State Border Guard Service, etc.

There are three committees in the Verkhovna Rada that are involved in reviewing all draft laws before consideration, including those related to national security. Thus, upon registration, all draft laws are referred to the Budget Committee, the Committee on Anti-Corruption Policy, and the Committee on Ukraine's Integration into the European Union for the preparation of expert opinions.

### 3. The Role of Temporary Special and Investigative Commissions of the Verkhovna Rada in Parliamentary Oversight of the Security and Defence Sector

The Verkhovna Rada can establish not only permanent committees, but also temporary commissions.

Temporary commissions are not unique to Ukraine. In other countries, parliaments also establish temporary bodies (committees or commissions). They are set up to address a

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61 Norwegian Parliamentary Oversight Committee on Intelligence and Security Service.

specific issue that does not fall within the jurisdiction of any permanent committee. This can include drafting or revising draft laws, analysing a particular problem and developing solutions, examining the state of affairs in a particular sector and informing the Parliament about their findings, etc.<sup>62</sup>

In countries with parliamentary or mixed forms of government, temporary investigative commissions are the primary entities responsible for parliamentary investigations. Such investigations are part of the parliamentary oversight function, allowing MPs to conduct independent inquiries into high-profile cases separate from judicial authorities or official investigations. These cases typically involve the activities of the government, state authorities, state-owned enterprises, and in some cases, local self-government bodies. MPs serving on temporary investigative commissions are granted broad powers: they have the right to request (and obtain) all necessary information relevant to their inquiries, summon representatives of government bodies to provide explanations and testimony, question witnesses, collect and examine evidence.<sup>63</sup>

The Verkhovna Rada may establish temporary special commissions<sup>64</sup> and temporary investigative commissions.<sup>65</sup> In the case of temporary investigative commissions, at least one third (i.e. 150) of the constitutional number of MPs must vote in favour of such a decision. The activities of both temporary commissions are regulated by the relevant Law of Ukraine No. 400-IX<sup>66</sup>, adopted in 2019. Prior to that, the activities of the respective entities were regulated by the Rules of Procedure of the Verkhovna Rada.

The resolution establishing a temporary special or investigative commission shall specify, *inter alia*, the tasks and scope of issues to be investigated, as well as the number and composition of its members. The deadline for submitting the commission's report is specified directly in the resolution on its establishment but cannot exceed six months from the date of its formation. The total duration of the commissions' operation must not exceed one year from the date of its formation. An MP may not be a member of more than two investigatory commissions and one special commission.<sup>67</sup>

In Ukrainian practice, the establishment of temporary special or investigative commissions is usually preceded by a high-profile event or issue of broad public interest. For example, following last year's Russian offensive in the Kharkiv region, the public raised numerous concerns about the efficiency of state budget expenditures on the construction of defen-

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62 Temporary Commissions in Parliament: Oversight Without Influence. "PARLIAMENT" Journal. 2023-2024. Issue 1. P. 8-9.

63 *Ibid.*

64 A collegial temporary body of the Verkhovna Rada established from among MPs to prepare and preliminarily consider issues, as well as to prepare and finalise draft laws and other acts of the Verkhovna Rada as a main committee (with some exceptions), if the subject of legal regulation of such drafts does not fall within the jurisdiction of other committees.

65 A collegial temporary body of the Verkhovna Rada established from among MPs, whose task is to exercise parliamentary oversight by conducting investigations into matters of public interest.

66 On Temporary Investigative Commissions and Temporary Special Commissions of the Verkhovna Rada of Ukraine: Law of Ukraine of 19.12.2019 No. 400-IX.

67 In accordance with the requirements of the Rules of Procedure of the Verkhovna Rada of Ukraine and the Laws of Ukraine "On Temporary Investigative Commissions and Temporary Special Commissions of the Verkhovna Rada of Ukraine" and "On the Status of a Member of Parliament of Ukraine".

sive structures along the border. In response, Parliament established a temporary special commission<sup>68</sup> to investigate the matter. Similarly, in view of the large-scale damage, a temporary investigative commission was established to investigate the circumstances of the fires at ammunition depots in five regions of Ukraine.<sup>69</sup>

The instrument of temporary special commissions is most actively used in the security and defence sector. Thus, the largest number of such commissions has been created specifically for national security issues.<sup>70</sup> As of 20 January 2025, the total number of these commissions established by the Verkhovna Rada in the IV, VI and IX convocations stands at 13.<sup>71</sup> However, only four of these commissions have had their reports approved. Moreover, in only two cases did the recommendations have any impact on resolving the issue under investigation. Two commissions established during the IX convocation are still awaiting consideration of their submitted reports, although the term for which they were established has already expired.<sup>72</sup>

A particularly noteworthy case is the Temporary Special Commission of the Verkhovna Rada of Ukraine on Monitoring the Receipt and Use of International Material and Technical Assistance, which demonstrates how the legal restriction on the one-year term of operating of temporary special commissions can be circumvented. It was first established in July 2022, and throughout 2023-2024, the Verkhovna Rada repeatedly terminated the work of the previous commission and immediately formed an identical commission with the same personnel by the same resolution.<sup>73</sup>

Such legislative manoeuvring highlights the deficiencies in the legal framework governing parliamentary commissions. This problem can be partially solved, at least for the duration of martial law, by Draft Law No. 7320<sup>74</sup>, which proposes allowing temporary investigative and special commissions to operate beyond one year under martial law, subject to a relevant decision by the Verkhovna Rada. On 23 February 2023, the Parliament adopted the draft law in the first reading as a basis. As noted by the Main Legal Department of the Verkhovna Rada in its conclusion to Draft Law No. 7320, maintaining the one-year maximum term for such commissions and reinforcing enforcement mechanisms would inevitably lead to the continued practice of repeatedly creating identical commissions with the same subject matter and personnel.

Temporary investigative commissions have been established in almost all convocations of the Parliament, except for the first one. As of January 2025, only one commission is investigating issues in the security and defence sector - the Temporary Investigative Commission on Investigating Possible Violations of Ukrainian Law Regarding the Financing of Medical

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68 See Annex 2, paragraph 11.

69 See Annex 3, paragraph 18.

70 Temporary Commissions in the Parliament: Oversight Without Influence. "PARLIAMENT" Journal. 2023-2024. Issue 1. P. 25.

71 See Annex 2.

72 Ibid, paras. 8-9.

73 Ibid, paras. 7, 10, 12.

74 On Amendments to Certain Laws of Ukraine Regarding the Terms of Office of Temporary Investigative Commissions and Temporary Special Commissions of the Verkhovna Rada of Ukraine in the Conditions of Martial Law, State of Emergency: Draft Law of Ukraine, registration No. 7320 of 26.04.2022.

Treatment and Rehabilitation of Service Members in Healthcare Institutions. However, its term was effectively extended beyond one year due to the establishment of a commission of the identical name with the same composition in September 2024.<sup>75</sup>

Of the 23 provisional investigatory commissions on the security and defence sector that were established during the Verkhovna Rada's tenure, seven resulted in the adoption of at least an interim report.<sup>76</sup> In the case of the other two commissions, their draft reports were withdrawn from consideration by the Verkhovna Rada. Another commission, although it has effectively ceased its activities, has had its interim report reviewed by the Verkhovna Rada since 2022.

According to the Law of Ukraine No. 400-IX, temporary investigative and temporary special commissions have a broad range of powers. For example, temporary special commissions exercise the powers of the lead committees, and therefore their activities are additionally regulated by the Law of Ukraine "On Committees of the Verkhovna Rada of Ukraine". The rights of temporary investigative commissions include, in particular:

- obtaining information, documents and materials related to the subject of the investigation from state authorities and their officials;
- appointing the necessary examinations and inviting experts to the commission meetings;
- engaging personnel from the Prosecutor's Office of Ukraine, the Security Service of Ukraine, and the Ministry of Internal Affairs of Ukraine in the investigation, subject to approval from their supervisors.

However, the conclusions and recommendations of these commissions are not legally binding for authorities conducting criminal proceedings.

The Criminal Code of Ukraine also contains part 2 of Article 351, which allows for criminal liability of any official who fails to comply with the lawful requirements of the Verkhovna Rada committees, temporary investigative commissions of the Verkhovna Rada or a special temporary investigative commission of the Verkhovna Rada, creates artificial obstacles to their work, or provides false information. According to the sanction of the article, the guilty party may be subject to several alternative types of punishment, including a fine (from UAH 34,000 to UAH 51,000), probationary supervision for up to five years, restriction of liberty for the same period, with additional ban on holding certain positions or engaging in specific activities for up to three years.

The effectiveness of Ukrainian temporary commissions is controversial. ***Their activities are hampered by several challenges: inadequate material, resource and personnel support; reluctance of government authorities, including law enforcement agencies, to cooperate<sup>77</sup>; frequent cases of lack of reports on the results of such activities, contrary to the requirements of the law.***

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75 See Annex 3, paragraph 23.

76 Ibid.

77 Temporary Commissions in Parliament: Oversight Without Influence. "PARLIAMENT" Journal. 2023-2024. Issue 1. P. 35-36.

However, in the context of the IX convocation, there has been a significant improvement in both the number of commission reports registered with the Parliament and the quality of such documents. In recent years, there has also been progress in making commission activities more transparent to the public.

For example, the Temporary Investigative Commission of the Verkhovna Rada to *investigate possible violations of Ukrainian legislation in the Ministry of Defence of Ukraine, the Armed Forces of Ukraine, other military formations established in accordance with the laws of Ukraine, and special purpose law enforcement agencies, staffed by military personnel* (which operated until October 2024), stood out among other commissions for its publicity both in mass media and social networks. For example, a dedicated Facebook page was created to cover the commission's activities. Additionally, the initiator of the commission and its head (MP Anna Skorokhod), periodically published news about the activities of the temporary investigative commission on her personal page of the aforementioned social network.<sup>78</sup> Certainly, the personal opinions of MPs published on their private social media accounts cannot be considered a best practice of informing the public about the work of temporary commissions. However, in a situation where such posts are almost the only source of information about the activities of the temporary commissions, the public has little choice but to rely on them.

It is important to note that there was resistance from the security and defence sector bodies to cooperate with the temporary investigative commission during its investigations. For example, one of the commission's meetings, which examined alleged violations in the operations of Territorial Recruitment and Social Support Centres, particularly regarding general mobilisation, was ignored by both representatives of these bodies and the Ministry of Defence.<sup>79</sup>

Instead, for perhaps the first time in practice, this commission raised the issue with law enforcement agencies, asserting that its legal requirements were being ignored, and the relevant actions of officials could be classified under Part 2 of Article 351 of the Criminal Code of Ukraine. For example, in July 2024, the Unified State Register of Court Decisions published at least seven rulings of the Frankivsk Court of Lviv on temporary access to items and documents in criminal proceedings involving alleged criminal offences, including those under the aforementioned article of Criminal Code. These court rulings indicated that the National Police had received a report from the temporary investigative commission regarding possible illegal actions by officials of the Hetman Petro Sahaidachnyi National Army Academy. Some rulings also mention the Academy's failure to provide documents requested by the temporary investigative commission.<sup>80</sup>

To strengthen the work of temporary investigative commissions, some MPs have **drafted** and registered **Draft Law No. 9186** in the Verkhovna Rada.<sup>81</sup> The most innovative aspect

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78 Anna Skorokhod's Facebook profile.

79 Ministry of Defence ignores TIC meetings on violations during mobilisation - Osadchuk. Young Ukraine. 2024.

80 For example, the decision of the Frankivsk Court of Lviv of 18.07.2024 in case No. 65/5470/24 on granting temporary access to items and documents.

81 On Amendments to Certain Legislative Acts of Ukraine on Improving the Effectiveness of Temporary Investigative and Temporary Special Commissions of the Verkhovna Rada of Ukraine: Draft Law of Ukraine, Reg. No. 9186 of 06.04.2023.

of this draft law is that it empowers temporary investigative commissions to monitor the implementation of their decisions by state authorities, local self-government bodies, enterprises and organisations regardless of ownership. The conclusions and recommendations of the commissions would become mandatory, and the pre-trial investigation body must inform the Verkhovna Rada within 30 days of their implementation. At this stage, it is difficult to say whether Draft Law No. 9186 will be adopted in its current form or even reach parliamentary hall, as it contains provisions contrary to the Constitution of Ukraine on unconditional implementation and liability of officials (including law enforcement agencies) for failing to comply with the conclusions and recommendations of temporary investigative commissions<sup>82</sup>.

#### **How this works in NATO member states**

**The Polish Senate** has the right to establish and dissolve extraordinary commissions to address specific issues. Thus, during its tenth term (2019–2023), it established an Extraordinary Commission to investigate cases of illegal surveillance, their impact on the electoral process in the Republic of Poland and the reform of the special services. The commission focused on the issue of the use of Pegasus software by the intelligence services to conduct illegal surveillance over opposition representatives, lawyers, prosecutors and civil society activists. In its final report, the commission presented the Senate with a series of recommendations aimed at eliminating the identified violations, including, to enhancing the effectiveness of parliamentary oversight, the recommendation to strengthen the Sejm Commission on Special Services and oblige it to cooperate with the Ombudsman. During this period, the Extraordinary Commission to Investigate Russian Influence on the Decisions of Public Authorities in Poland was also in operation.<sup>83</sup> The task of this commission was, among other things, to identify possible threats from Russian special services and to formulate proposals to counter these threats, including through the introduction of appropriate legal solutions.

The Sejm (the lower house of the National Assembly of Poland) has the authority to establish both extraordinary and investigative commissions. An investigative commission is formed by a resolution of the Sejm adopted by an absolute majority of votes and consists of up to 11 members. The decision to establish an investigative commission specifies the scope of its activities, may include detailed rules of procedure and the deadline for submitting a report.<sup>84</sup> Currently, for example, there is an investigative commission that, following the example of the Senate's extraordinary commission, is checking the legality, regularity and purposefulness of the operational and intelligence activities, including the use of Pegasus software by members of the Council of Ministers, intelligence services, police, fiscal and customs control authorities, criminal prosecution agencies and the prosecutor's office in the period from 16 November 2015 to 20 November 2023.<sup>85</sup>

In **Italy**, investigative commissions can be established both by either chamber of Parliament separately (by a decision of the Chamber of Deputies or the Senate) and bica-

82 Opinion of the Main Scientific and Expert Department of the Verkhovna Rada of Ukraine of 20.04.2023 No. 16/03-2023/83646.

83 Komisje Senackie.

84 On the Sejm Commission of Inquiry: Act of 21.01.1999, Article 2.

85 SKPG.

meral commissions to investigate specific issues (through the adoption of a specific law). The act establishing an investigative commission must include provisions regarding its objectives, composition, powers and limitations, secrecy of information, internal organisation and the maximum level of operational expenses. A distinctive feature of investigative commissions is that they can conduct investigations and expert analyses with the same powers and limitations as the judiciary. Based on the results of its work, the investigative commission must submit a final report.<sup>86</sup> Between 2002 and 2006, a bicameral investigative commission was established to investigate the "Mitrokhin Archive"<sup>87</sup> and the activities of Italian intelligence service<sup>88</sup>, whose members (20 senators and 20 deputies) examined, among other things, whether decisions were made by intelligence agencies without consulting the government, their efforts to locate military materials and covert weapons stockpiles, and radio transmission equipment linked to KGB activities in Italy, etc. The commission published two reports on the results of its work, presented by its chair, a senator, and separately by centre-left MPs. However, the commission was once accused of bias and was believed to be politically motivated, allegedly established to criticise the opposition.

## 4. Parliament's Participation in Shaping the Personnel Policy of the Security and Defence Sector

Among the tools of parliamentary oversight, special attention is focused on the participation of the legislative branch in the decision-making process on the appointment and dismissal of the heads of the security and defence sector.

### *How this works in NATO member states*

In **Romania**, the Prime Minister is appointed by the President following consultations with the parliamentary majority party(s). Members of the government, including the Minister of National Defence, are also appointed by the president based on a vote of confidence by the Parliament.<sup>89</sup> In turn, the Parliament upon the President's nomination, appoints the directors of the Romanian Intelligence Service and the Foreign Intelligence Service.

The Minister of Defence of **Bulgaria** is appointed by the National Assembly upon the Prime Minister's nomination. Meanwhile, the head of the State Intelligence Agency is appointed by the President upon the proposal of the Council of Ministers.<sup>90</sup>

86 Cosa sono e cosa fanno le commissioni d'inchiesta. Openpolis. 2023.

87 The "Mitrokhin Archive" is a collection of notes and documents secretly made over 30 years, taken and hidden by KGB officer V. Mitrokhin. This dossier has been subject to parliamentary scrutiny in the UK, Italy, India and has stirred up several countries around the world.

88 Commissione inchiesta "dossier Mitrokhin" e intelligence italiana.

89 Constitution of Romania of 31.10.2003, part 2, Article 103.

90 Constitution of Bulgaria of 13.07.1991, para. 6, Article 84. State Agency for Intelligence.

In the **United States**, the Director of National Intelligence<sup>91</sup>, the Director of the Central Intelligence Agency<sup>92</sup> and the Secretary of Defence<sup>93</sup> are appointed by the President following consultations and with the consent of the Senate. At the same time, the legislation provides for an imperative provision requiring that the Secretary of Defence must be a **civilian**. If the nominee previously served in the military, they must have been out of active service for at least seven years if they held a rank below O-7 at the time of discharge, or ten years if they held a rank of O-7 or higher (although exceptions to this rule have occurred in practice<sup>94</sup>). Historically, this requirement was first introduced in Section 202 of the National Security Act of 26 July 1947 as "...10 years from the date of discharge from active military service..." and was explained by the need to fight corruption. This period was considered sufficient and necessary in the US to lose the connection between the discharged and politically involved officer and the current officer, who could contribute to the establishment of an undue advantage.<sup>95</sup>

The appointment of civilians (either with or without many years of military service) to lead the Ministry of Defence has been a common practice in France, Germany, Italy, Canada, and other countries in recent decades. This approach is in line with established practice in EU and NATO member states. This is primarily due to attempts to separate the political component from the military service, as the latter is characterised by a certain hierarchical structure and subordination relations. Instead, the position of the Minister of Defence is a political one, which implies a focus on relevant policy and management, and is characterised by a certain degree of flexibility.

Since Ukraine's independence, the mechanism for appointing the Minister of Defence has changed significantly. From 1996 to 2006, the entire government, including the Minister of Defence, was appointed by the President upon the Prime Minister's nomination.<sup>96</sup> Since 2006, following the introduction of the necessary constitutional amendments, the head of the Ministry of Defence of Ukraine has been appointed by the Parliament upon the President's nomination.

In the context of personnel requirements for this position, it is worth noting that prior to the adoption of the Law on National Security, the legislation did not explicitly specify whether the Minister of Defence of Ukraine should be a military officer or civilian. For example, the first civilian Minister of Defence of Ukraine in 1994-1996 was V. Shmarov. However, from 1996 to 2018, the position was mostly held by serving military personnel.<sup>97</sup>

91 US Federal Law "Intelligence Reform and Terrorism Prevention Act" of 17.12.2004 No. 108-458.

92 Ibid.

93 United States Code, Title 10, Section 113.

94 In 2017, the US Congress passed a law that allowed retired General James Mattis to become Secretary of Defence under President Donald Trump, even though he had retired from the military four years before being appointed to the post.

Under similar circumstances, US President Joe Biden appointed retired General Lloyd Austin, who retired from the military in 2016, as Secretary of Defence in 2021.

95 Kozii I., Polyakov L. Reform of democratic civilian control over the Armed Forces and other military formations in Ukraine: next steps // Institute for Euro-Atlantic Cooperation. 2018.

96 The Constitution of Ukraine of 28.06.1996 No. 254k/96-VR, part 3 of Article 114 (as amended on 28.06.1996).

97 Minister of Defence of Ukraine.

One of the first legislative provisions requiring the Minister of Defence to be a civilian appeared in 2002 in the initial draft of the law “On Democratic Civilian Control over the Military Organisation and Law Enforcement Agencies of the State” (Article 17)<sup>98</sup>: *“In the event that a civilian is appointed as the Minister of Defence of Ukraine, the Minister of Defence of Ukraine shall exercise command over the Armed Forces of Ukraine in accordance with the principles of domestic and foreign policy approved by the Verkhovna Rada of Ukraine, the decrees and orders of the President of Ukraine, and decisions of the Government of Ukraine in the field of national security and defence of the state.”* However, during the preparation of the relevant draft law for the second reading, one of its initiators (MP of the IV convocation B. Andresiuk) proposed to exclude Article 17 without any justification.<sup>99</sup>

In 2016, the President of Ukraine introduced the Strategic Defence Bulletin, which stated that to align with Euro-Atlantic norms and standards, Ukraine would strengthen civilian control over the Armed Forces through the Minister of Defence and the MoD by the end of 2018, including **by appointing a civilian Minister of Defence, Deputy Ministers and the State Secretary of the MoD.**<sup>100</sup> Additionally, to the requirements for the Secretary of State, the relevant provisions are reflected in Article 15 of the Law on National Security.

Regarding the State Secretary of the Ministry of Defence, the Law of Ukraine “On Central Executive Authorities”<sup>101</sup> explicitly allows for the appointment of a military officer. However, since late 2019, all appointed State Secretaries of the Ministry of Defence have been including former military personnel, academics, legal professionals, etc.<sup>102</sup> Even Colonel General Oleksandr Dubelian, who held the relevant position in 2016-2019, retired from the military service in November 2018<sup>103</sup> and continued to work as a civilian. It is likely that the general rule on civilianising the MoD leadership has influenced the appointment of State Secretaries, which is also consistent with the practice of NATO member states (UK, Latvia, Sweden<sup>104</sup>, etc.). Therefore, national legislation should now be revised to eliminate the provision allowing military officers to hold the position of State Secretary of the MoD.

After the onset of the full-scale invasion and against the background of the dismissal of civilian Minister of Defence Oleksandr Reznikov in 2023, some high-ranking officials and experts again suggested that it would be advisable to return to the previous practice of appointing full-time military personnel to this position during martial law<sup>105</sup>.

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98 On Democratic Civilian Control over the Military Organisation and Law Enforcement Agencies of the State: Draft Law of Ukraine, registration No. 2115 of 13.12.2002.

99 Ibid, comparative table for the second reading of 19.06.2003.

100 The Strategic Defence Bulletin of Ukraine: enacted by the Decree of the President of Ukraine of 06.06.2016 No. 240/2016, para. 2.7, section II.

101 On “Central Executive Authorities”: Law of Ukraine of 17.03.2011 No. 3166-VI, part 6, Article 10.

102 State Secretary of the Ministry of Defence of Ukraine. Wikipedia.

103 The Ministry of Defence held a solemn ritual to send off the State Secretary of the Ministry of Defence of Ukraine in connection with his retirement from military service. Ministry of Defence of Ukraine. 2018.

104 Secretary of State for Defence. State Secretary. State Secretary to Minister for Defence Pål Jonson.

105 Public Administration in the Defence Sector of Ukraine: Which Minister of Defence Should Carry It Out. Information Agency “Defence and Industry Courier”. 2023.

At the same time, the President, bypassing the imperative provisions of the law, amended the list of positions that may be occupied by military personnel<sup>106</sup>, allowing for the appointment of active-duty military officers as First Deputy Minister and Deputy Ministers of Defence during the martial law regime. Using these changes, in 2023, the Government appointed Lieutenant General O. Pavliuk<sup>107</sup> as First Deputy Minister of Defence. Since May 2024, this position has been held by Lieutenant General I. Havryliuk.<sup>108</sup>

At the same time, in the same decree that amended the list of positions eligible for military personnel, the President instructed the Government to submit proposals to the National Security and Defence Council of Ukraine to **strengthen** democratic civilian control over the bodies and formations of the security and defence sector in accordance with NATO standards.<sup>109</sup> Thus, in essence, the provisions of the presidential act are somewhat contradictory and to some extent offset the attempts to “strengthen” democratic civilian control in the security and defence sector.

The introducing of a **colling-off period** during which former military personnel are effectively prohibited from holding the positions of Minister of Defence or Deputy Minister, is an important component of democratic civilian control. It facilitates the severance of entrenched military ties, effectively transforming former military personnel into civilian officials with a more civilian-oriented mindset, capable of overseeing active-duty military personnel. This also reduces the risk of corrupt practices.

In Ukraine, unlike in the United States, civilian positions in the Ministry of Defence are often occupied by individuals who were [literally] active military personnel until the day before their appointment. For example, in order to continue leading the Ministry, Army General S. Poltorak formally complied with the requirements of the adopted law in 2018 by submitting a request for discharge from military service<sup>110</sup>, thus becoming a civilian. That same year, Lieutenant General A. Petrenko, who served as Deputy Minister of Defence of Ukraine for European Integration (2017-2022), also retired from military service.<sup>111</sup> That is, in fact, nothing changed in the activities of the former military, except for the removal of their military insignia. In view of this, it is worth considering the introduction of a mandatory cooling-off period (2-3-5 years), before a former service member can be appointed to lead the Ministry of Defence. The relevant 5-year restrictions on individuals seeking appointment as Minister of Defence, First Deputy Minister and Deputy Ministers is already envisaged in Draft Law No. 4210.

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106 The list of positions held by service members of the Armed Forces of Ukraine, other military formations, special purpose law enforcement agencies in state bodies, enterprises, institutions, organisations, as well as state and municipal educational institutions, and the maximum military ranks for these positions: Decree of the President of Ukraine of 03.05.2017 No. 126/2017.

107 Government appoints Oleksandr Pavliuk as First Deputy Minister of Defence of Ukraine / LB.ua: website. 2023.

108 Havryliuk Ivan Yuriiiovych / Ministry of Defence of Ukraine.

109 On Amendments to the Decrees of the President of Ukraine of 3 May 2017 No. 126/2017 and of 5 May 2020 No. 166/2020: Decree of the President of Ukraine of 13.02.2023 No. 76/2023, para. 2.

110 On the dismissal of S. Poltorak from military service: Decree of the President of Ukraine of 14.10.2018 No. 332/2018.

111 Petrenko Anatolii Hryhorovych / Embassy of Ukraine in the Kingdom of Saudi Arabia.

The Constitution of Ukraine also grants the Verkhovna Rada the authority to appoint and dismiss **other officials of the security and defence sector** (upon the President's nomination - the Head of the SSU; upon the Prime Minister's nomination - the Minister of Internal Affairs), as well as to approve the general structure, personnel strength, and functions of the SSU, the Armed Forces, other military formations, and the Ministry of Internal Affairs (Article 85).<sup>112</sup>

Over the past decades, approaches to decision-making on approving the personnel strength of the Armed Forces have changed. Until 2000, the Parliament approved the personnel strength through its resolutions, setting figures for several years in advance. Since December 2000, the Verkhovna Rada has changed its approach and for the first time adopted a law establishing the personnel strength of the Armed Forces for a five-year term<sup>113</sup>. At the same time, after Viktor Yushchenko was elected President, the Parliament began to approve the number of the Armed Forces on an annual basis. Some experts point out that the latter approach was somewhat questionable, as it did not contribute to the strategic vision for the development of the Armed Forces<sup>114</sup>.

In 2015, the Verkhovna Rada approved the personnel strength of the Armed Forces of Ukraine<sup>115</sup> without time limits. The latest amendments to this Law in 2021 stipulated that the AFU's total personnel should not exceed 261,000 individuals, including 215,000 military personnel. In view of this provision, experts<sup>116</sup>, even before the full-scale invasion, emphasised the expediency of separately specifying the number of civilians in the AFU in the Law. Without the appropriate specification, there was a tendency to increase the number of civilians in the AFU as a result of a decrease in the number of military personnel<sup>117</sup>.

The Verkhovna Rada also approves the personnel strength of other security and defence sector bodies. For example, the relevant provisions are contained in the relevant laws on the principles of organisation and operation of:

- the SBGS (total personnel: 60,000 in total, including 52,000 military personnel);
- the NGU (total personnel - up to 60,000);
- the State Special Transport Service (total personnel - 5,000, including 4,600 military personnel);
- the State Service for Special Communications (total personnel - 7,500);
- the FISU (total personnel - 4,350 people, including 4,010 military personnel);
- DSP (total personnel – 2,993).

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112 See the Laws of Ukraine "On the Number of the Armed Forces of Ukraine", "On the General Structure and Number of the Security Service of Ukraine", "On the General Structure and Number of the Ministry of Internal Affairs of Ukraine".

113 On the number of the Armed Forces of Ukraine for 2000-2005: Law of Ukraine of 07.12.2000 No. 2128-III.

114 Ovdin O. V. Determination of the Limit of the Armed Forces of Ukraine in the Context of National Security Protection / Electronic publication "Public Administration: Improvement and Development". 2021.

115 On the number of the Armed Forces of Ukraine: Law of Ukraine of 05.03.2015 No. 235-VIII.

116 Ovdin O. V. Determination of the Limit of the Armed Forces of Ukraine in the Context of National Security Protection / Electronic publication "Public Administration: Improvement and Development". 2021.

117 Ibid.

## 5. Military Ombudsman as a Tool for Oversight of Rights and Freedoms in the Security and Defence Sector

After the Second World War, the institution of ombudsman was established to oversee the armed forces. This oversight may be carried out either by an ombudsman of general jurisdiction (Romania, Poland, Ukraine) or by an ombudsman with a clear focus on the defence and security sector (Canada, Germany, Austria, etc.). The creation of specialised ombudsman positions is usually triggered by negative incidents within the armed forces.<sup>118</sup>

Structurally, the military ombudsman may be part of the country's armed forces (USA, Canada), may not be part of them but deal exclusively with issues related to the observance of the rights of military personnel (Germany), or may be a general ombudsman (Poland, Ukraine).

The status and functions of these institutions can vary significantly across different states and are primarily shaped by national military traditions, legal systems and civil-military relations, as well as by the intended purpose of the specific oversight mechanism.<sup>119</sup> At the same time, it is possible to identify common core competencies that are inherent in different types of ombudsmen institutions:

- reviewing complaints regarding violations of human and civil rights and freedoms;
- conducting investigations and issuing recommendations based on such complaints;
- preparing and publishing reports on their activities.

### *How this works in NATO member states*

In **Germany**, the Commissioner for the Armed Forces (Military Ombudsman) acts as an auxiliary body of the Bundestag in the exercise of parliamentary oversight, acting on behalf of the Bundestag or the Defence Committee to investigate specific issues. A mandate can be issued only if the Defence Committee does not take up the issue itself. At the same time, the Commissioner for the Armed Forces can request a mandate from the Defence Committee to investigate particular matters. The ombudsman is required to submit individual reports on the investigations conducted by mandate (upon request), separate reports to the Bundestag or the Committee, and a general (annual) report. The Commissioner for the Armed Forces is elected by the Bundestag through a secret vote by a majority of its members and appointed by its President.<sup>120</sup>

In **Canada**, the Ombudsman institution was established following a series of scandals related to gross violations by Canadian military personnel during their participation in the UN peacekeeping operation in Somalia (1992-1993). The Ombudsman of the Department of National Defence (DND) and the Canadian Armed Forces (CAF) is part

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118 Buckland B., McDermott W. Ombuds institutions in the armed forces: a practical guide. 2015. P. 16.

119 Ibid. p. 27.

120 German Law on the Parliamentary Commissioner for the Armed Forces of 26.06.1957.

of these structures and is funded by the Ministry of National Defence.<sup>121</sup> The Ombudsman is independent from the leadership (except for the Minister) and chain of command of the DND and CAF and reports directly to and is accountable to the Minister.<sup>122</sup> The Ombudsman investigates any case assigned by the Minister in writing, or initiates independent investigations under the law after consulting with the Minister. The Ombudsman shall submit an annual report to the Minister or at any time upon request. The peculiarity of the Canadian system is the simultaneous existence of two ombudsmen: one for National Defence and Armed Forces (handles complaints from former and current DND and CAF employees, cadets, military applicants, etc.) and another for Veterans Affairs<sup>123</sup> (handles complaints from veterans regarding actions and decisions of the Ministry of Veterans Affairs of Canada).

Another example of an ombuds institution that is limited to the armed forces is the **Austrian** Parliamentary Commission on the Federal Armed Forces. The chairperson of the Commission is appointed by the National Council and the members are appointed by parliamentary factions for a six-year term. The Chief of the General Staff, the Chief of the Main Directorate of the Ministry of Defence and a military medical expert are advisory bodies without voting rights. The Commission receives and reviews complaints from military personnel or conscripts. If the Commission suspects shortcomings or violations in the military sphere, it can consider them *ex officio* without a complaint.<sup>124</sup> The Commission publishes annual reports on its activities.

A country where the Commissioner for Human Rights has jurisdiction over complaints related to the rights and freedoms of military personnel and other representatives of the security and defence sector, i.e. has general jurisdiction, is **Poland**. The Commissioner for Human Rights is appointed by the Sejm with the consent of the Senate on the proposal of the Speaker of the Sejm or a group of 35 MPs. The Commissioner for Human Rights has the authority to take action in cases of human rights violations, either proactively, based on citizen complaints, or upon requests from organisations, etc. The Commissioner for Human Rights annually reports on its activities to the Sejm and the Senate.<sup>125</sup>

The Ukrainian legislation currently does not define the concept of a “military ombudsman”. Parliamentary oversight over the observance of the rights and freedoms of Ukrainian citizens, including military personnel and other employees in the security and defence sector, and their family members, is exercised by the Ukrainian Parliament Commissioner for Human Rights (hereinafter referred to as the Commissioner). The Commissioner operates based on information regarding violations of human and civil rights and freedoms received at the request of citizens of Ukraine, foreign nationals, stateless persons or their representatives, members of the Parliament of Ukraine or initiated independently.

121 Buckland B., McDermott W. Ombuds institutions in the armed forces: a practical guide. 2015. p. 16, 30.

122 Office of the Ombudsman: Government of Canada Resolution 5047-1 of 17.08.1999, clause 2, Article 3, Annex A.

123 Office of the Veterans Ombud.

124 Parliamentary Commission for the Federal Armed Forces.

125 On the Ombudsman: Act of the Republic of Poland of 15.07.1987, item 1 of Article 3, Article 9.

As of today, the Law of Ukraine "On the Ukrainian Parliament Commissioner for Human Rights"<sup>126</sup> contains several conflicting and controversial provisions. Thus, part 1 of Article 5 of this Law provides that the Commissioner is appointed and dismissed by the Verkhovna Rada **by secret** ballot. However, the Rules of Procedure of the Verkhovna Rada, as amended in 2017, state that such decisions are made by open voting by a majority of MPs from the constitutional composition of the Parliament. Parliamentarians apply the latter act because its provisions are more recent.

The specialised law also guarantees the principle of independence of the Commissioner, particularly by ensuring that their powers cannot be terminated or restricted in the event of the expiration of the Verkhovna Rada's term, its dissolution (self-dissolution), or the introduction of **martial law** or a state of emergency in Ukraine or in specific regions (part 3, Article 4 of the Law). Instead, in May 2022, the Parliament amended the Law of Ukraine "On the Legal Regime of Martial Law", effectively granting itself the authority to dismiss the Commissioner based on a vote of no confidence. Some experts argue that in both cases, these legislative changes were adopted in the context of a specific individual<sup>127</sup> thereby undermining the institution of the Ukrainian Ombudsman and eroding public trust in it.

There may be different views on these parliamentary initiatives, but harmonising the provisions of specialised legislation, ensuring the maximum independence of the Commissioner's legal status, even from Parliament itself, and avoiding the adoption of legally contradictory decisions in the future is necessary.

Within the security and defence sector, the Commissioner exercises their powers **through their representative**<sup>128</sup>, whom they have the right to appoint and dismiss at their discretion. Nevertheless, there is an increasingly active discussion in Ukraine<sup>129</sup> about the necessity of introducing a separate position of a military ombudsman. However, in the opinion of the current Commissioner, their representative in the security and defence sector can already be considered a military ombudsman.<sup>130</sup>

At the same time, in September 2023, the President supported the idea of the Ministry of Defence to establish the position of a military ombudsman as a new institution.<sup>131</sup> According to the Ministry of Defence, as of April 2024, the Central Department for the Protection of the Right of Military Personnel was established in this context, which is directly subordinate to the Minister and is responsible for considering appeals and complaints from military personnel, providing primary legal assistance, conducting inspections and investigating

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126 On the Ukrainian Parliament Commissioner for Human Rights: Law of Ukraine of 23.12.1997 No. 776/97-VR.

127 "We have the right to express no confidence because there is a war on." Analysing why Ombudswoman Lyudmyla Denisova was dismissed and what will happen to the human rights institution. Zaborona: website. 2022.

128 Representatives of the Commissioner.

129 Martseliak O.V. Military Ombudsman as an Institutional Guarantee of Protection of the Rights of Military Personnel (Foreign Experience). Scientific Bulletin of Uzhhorod National University. 2024.

130 The military ombudsman in Ukraine already exists: Lubinets explains how and where military personnel can file complaints. New Voice: website. 2024.

131 Zelensky supported the initiative to establish the position of military ombudsman. Suspilne News. 2023.

violations of the rights of military personnel and their families.<sup>132</sup> Additionally, in the final days of December 2024, the President appointed Olha Kobylinska as the Commissioner for the Protection of the Rights of Military Personnel and Members of Their Families<sup>133</sup>, who immediately announced that the draft law on the military ombudsman was in the final stages of development.<sup>134</sup>

However, until the activities of the military ombudsman are legally regulated, several unresolved issues remain: how their powers will be coordinated with those of the Commissioner's representative in the security and defence sector; whether the military ombudsman will be sufficiently guaranteed independence in decision-making if subordinated to the Minister of Defence. Military personnel themselves have expressed their scepticism regarding the latter issue.<sup>135</sup> If a decision is made to grant the military ombudsman a similar legal statute to that of the Commissioner, this would require amendments to the Constitution of Ukraine, which is impossible under martial law.<sup>136</sup>

Similarly to international practice, the Commissioner submits **annual and special reports** to the Parliament on the state of observance and protection of human and civil rights and freedoms in Ukraine<sup>137</sup>, including in the specified area. These reports highlight the identified issues and provide recommendations for their resolution. Since the beginning of the full-scale invasion, there has been a significant increase in appeals (almost 17,000 appeals<sup>138</sup> in 2023 compared to 495<sup>139</sup> in 2021, i.e. 34-fold increase) from representatives of the security and defence sector to the Commissioner regarding violations of their rights, namely:

- dismissal from military service;
- payments of financial entitlements to military personnel and their families;
- violations in the work of military medical commissions and the provision of medical services, particularly in relation to military conscription;
- service conditions and procedures, including issues related to mobilisation.

An important part of such reports includes recommendations for improving the mechanism for protecting the rights and freedoms of citizens, as well as an assessment of the implementation of recommendations from previous years. Such recommendations **are not**

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132 The Ministry of Defence launches a new initiative to protect the rights of military personnel. Ministry of Defence of Ukraine. 2024.

133 On the appointment of O. Kobylinska as the Presidential Commissioner for the Protection of the Rights of Military Personnel and Members of Their Families: Decree of the President of Ukraine of 30.12.2024 No. 886.

134 Reshetylova talks about her first steps as military ombudsman. Ukrinform. 2025.

135 YouTube.

136 The Constitution of Ukraine of 28.06.1996 No. 254k/96-VR, part 2, Article 157.

137 Annual and special reports.

138 Annual report on the state of observance and protection of human and civil rights and freedoms in Ukraine in 2023. Ukrainian Parliament Commissioner for Human Rights.

139 Annual report of the Ukrainian Parliament Commissioner for Human Rights on the state of observance and protection of human and civil rights and freedoms in Ukraine. Ukrainian Parliament Commissioner for Human Rights. 2021. P. 400.

**binding** and therefore do not have any legal consequences in case of failure to implement them. In this regard, the state of implementation of the Commissioner's recommendations remains low.<sup>140</sup> According to the Commissioner's information on the protection of human rights in the security and defence sector, only half of the 14 recommendations provided to the Government and five ministries responsible for various areas of state policy in 2022 had been implemented as of the end of the following year.<sup>141</sup> Two additional recommendations were in the process of being implemented, and the rest were either no longer relevant (1) or had not been implemented at all (4).

## 6. Approval of Budget Allocations and Decision-Making on their Utilisation Reports

Budgeting in the security sector is the process of allocating financial resources to security sector activities. As a broad process, it encompasses budget planning, budget execution, reporting and audit. Transparent security sector budgeting and accountable financial management are key to the integrity of the security sector as a whole and to reducing opportunities for corruption in the security sector.<sup>142</sup>

As part of the budget process, parliaments around the world perform two functions - legislative and oversight. The first one involves improving financial reporting procedures, approving the state budget for the respective year and adopting other legal acts governing relations within the security and defence sector.

The oversight function of parliaments is exercised through the examination of the security budget. In many countries, the legislature and its specialised committees have the right to amend the state budget before it is approved. Many parliaments regularly debate in plenary whether funding requests submitted by the government are appropriate. Parliament is also involved in the process of comparing threats to national security and the country's financial situation. The legislature may summon individuals working in the security services for hearings. To this end, parliamentarians can organise public hearings where officials responsible for particular security sector expenditures must explain why and how public funds were spent.<sup>143</sup>

The Law on the State Budget of Ukraine provides for budgetary expenditures in the security and defence sector, including funding for the maintenance of relevant institutions (salaries, material and technical support, etc.) and equipping the AFU (financing programmes for the purchase of major types of weapons and equipment).

Beyond approving the State Budget, the Verkhovna Rada has the authority to amend it, including increasing funding for the security and defence sector. For example, in 2024,

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140 Stetsenko D.Y. Ombudsman as a subject of guaranteeing the observance of human and civil rights and freedoms under martial law. Scientific Notes. Series: Law.

141 Annual report on the state of observance and protection of human and civil rights and freedoms in Ukraine in 2023.

142 Building Integrity and Reducing Corruption in Defence: A Compendium of Best Practice. DCAF. 2010. P. 57.

143 Masson N., Andersson L., Salah Aldin M. Strengthening Financial Oversight in the Security Sector. 2011. P. 30.

the State Budget was amended only once<sup>144</sup>; however, it provided for an increase in expenditures from the general fund of the state budget for specific key spending units in the national security and defence sector; in 2023, four laws on budget amendments were adopted, and in 2022, a total of 15 such laws were adopted.

The parliaments of **Sweden** and **Finland** have the authority to amend any budget items, including those related to the security and defence sector, including increasing expenditures. In contrast, parliaments in the **UK** and **Canada** can only reduce budget expenditures<sup>145</sup>.

The parliamentary oversight of security and defence funding focuses on the effective use of such funds. In addition to the annual reporting of the security and defence agencies, particularly regarding the targeted and efficient spending of allocated funds, this analysis is carried out by specially authorised bodies - **supreme audit institutions (SAIs)**.

The fundamental principles of SAIs functioning are outlined in the Lima Declaration of Guidelines on Auditing, adopted in October 1977 at the IX INCOSAI (an international organisation of supreme audit institutions operating under the auspices of the United Nations or its specialised agencies). Thus, in accordance with Section 8 of the Lima Declaration<sup>146</sup>, the independence of SAIs provided under the Constitution and law also guarantees a very high degree of initiative and autonomy, even when they act as an agent of Parliament and perform audits on its instructions. The relationship between the SAI and Parliament shall be laid down in the Constitution according to the conditions and requirements of each country.

Experts use different classification systems for SAIs, but in general, three primary models of SAIs are distinguished in global practice. The Westminster (Anglo-Saxon) or parliamentary model is characterised by the fact that the SAI is interconnected with the parliamentary financial control system, particularly through a special committee. The SAI is typically led by the Auditor General, who may be a staff member of the parliament. Under this model, the audit focuses on the expediency, efficiency and rationality of spending public funds in financial transactions rather than on compliance with the law.

In the **United Kingdom**, the National Audit Office (NAO)<sup>147</sup> operates as an independent body overseeing public spending. The NAO is headed by the Comptroller and Auditor General (CAG), who is an officer of the House of Commons and has the authority to audit and inspect the financial statements of all government departments and other public bodies, and to examine and report on value for money of public spending. The CAG is appointed by the Head of State (King/Queen) for a term of 10 years. In the exercise of its powers, CAG receives support from an executive team of six directors respon-

144 Law of Ukraine "On Amendments to the Law of Ukraine "On the State Budget of Ukraine for 2024" on Financial Support of the Security and Defence Sector" No. 3978-IX of 18 September 2024.

145 Ibid. p. 33.

146 The Lima Declaration of Guidelines on Auditing Precepts.

147 National Audit Office.

sible for different functional areas. Audit opinions are signed by the CAG alone, however, work planning decisions within NAO can be taken collectively. The NAO is supervised by the Public Accounts Commission, a parliamentary committee composed of members of parliament.<sup>148</sup> On its official website, the NAO annually publishes reviews and reports in the context of the security and defence sector (on defence stockpile management, Ministry of Defence expenditures, activities of the Security Service, etc.) For example, in September 2024, the NAO released a report on the value for money based on the results of an investigation into military support to Ukraine.<sup>149</sup>

The next model is the judicial audit model, in which the SAI is part of the country's judicial system and interacts with the parliament only indirectly. This model is typical for certain European countries and former French colonies in Africa. SAI activities are generally focused on verifying the legality of public spending.

In **France**, the Court of Auditors (Cour des comptes) is independent from both the government and parliament and is supposed to assist parliament in monitoring government actions, while simultaneously assisting parliament and the government in monitoring the implementation of finance and social security laws and in evaluating public policy. The respective SAI also has judicial powers. The Court of Auditors is headed by the first president, who is appointed by the President of France upon the recommendation of the Council of Ministers. It consists of seven chambers, each specialising in a particular area (e.g., defence, internal security and intelligence issues are the responsibility of the 4<sup>th</sup> Chamber). Judges who are members of the chambers make decisions collectively. Through its public reports, the Court of Audit informs the public. For example, in its 2020 Annual Report, the Accounting Chamber provided recommendations on improving drone deployment processes, and in the Annual Report 2021 - on defence innovations in France<sup>150</sup>.

The third audit model is the corporate audit model (Germany, the Netherlands), where reports and opinions of the SAI are adopted by collegial decisions of its members. This system is similar in nature to the parliamentary model. The key distinction between them lies in the internal structure of the audit institution - the SAI has a board of directors consisting of appointed members and headed by the president.<sup>151</sup>

The Federal Court of Auditors (Bundesrechnungshof) of **Germany** is an independent financial oversight body, whose members enjoy immunity from legal prosecution, which verifies the accuracy of public accounts, overseeing budgetary expenditures and monitoring federal economic management. The members of this SAI are the president, vice president, heads of departments and audit divisions. Decisions within the Federal

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148 Budget Responsibility and National Audit Act. 2011.

149 Investigation into military support for Ukraine. 2024. National Audit Office.

150 Publications. Cour des comptes.

151 Masson N., Andersson L., Salah Aldin M. Strengthening Financial Oversight in the Security Sector. 2011. P. 30.

Court of Auditors are made collectively. The Bundestag and the Bundesrat elect the president and vice-president of the Federal Court of Auditors without debate, based on nomination from the federal government<sup>152</sup>, and they are formally appointed by the Federal President. In its 2023 Annual Report, the Federal Court of Auditors dedicated two sections to the Bundeswehr, namely the efficient use of funds for the operation of technical schools for military personnel and the procurement of batteries for communication headsets.<sup>153</sup>

Parliamentary oversight over the targeted use of budget funds is exercised by the Verkhovna Rada, particularly through **the Accounting Chamber of Ukraine** (Accounting Chamber), which, in accordance with the Constitution of Ukraine, monitors the inflow of funds into the budget and their use by conducting state external financial control (audit) measures.

It is worth noting that, at its inception and during the first year of its operation, the Accounting Chamber functioned as a permanent supreme financial and economic oversight body under the Verkhovna Rada.<sup>154</sup> The Constitutional Court of Ukraine put an end to the debate over its status as a body of the Verkhovna Rada in December 1997, when it ruled that such provisions of the law in force at that time were unconstitutional<sup>155</sup>. Interestingly, until December 2024, Ukrainian legislation did not explicitly recognise the Accounting Chamber as the supreme audit institution, unlike its foreign counterparts, however, in the context of international relations, it was acknowledged as such.

Structurally, the Accounting Chamber aligns with the third (collegial) audit model, as it adopts decisions collectively and follows an established institutional framework. It operates in accordance with Article 98 of the Constitution of Ukraine and the Law of Ukraine "On the Accounting Chamber". The Accounting Chamber has an independent status, which is directly regulated by the relevant law (Article 3), and is accountable to the Verkhovna Rada, regularly informing it about the results of its work (annually by 1 May it submits the report for the previous year to the Verkhovna Rada).

The institution operates in a session mode, during which the members of the Accounting Chamber review and approve audit reports through collective decisions. For example, in May 2022, the Accounting Chamber approved the report on the results of an audit assessing the efficiency of the use of budget funds allocated to the Ministry of Defence for the construction (procurement) of housing for military personnel.<sup>156</sup> In 2023, the Accounting Chamber approved three reports in the area of security and defence of the state, including

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152 German Law on the Federal Court of Auditors of 11.07.1985.

153 Time for more efficiency: 2023 Annual Report supplemented by a spring report. Bundesrechnungshof.

154 On the Accounting Chamber of the Verkhovna Rada of Ukraine: Law of Ukraine of 11.07.1996 No. 315/96-VR, part 1, Article 1.

155 Decision of the Constitutional Court of Ukraine of 23.12.1997 in the case on the constitutional petition of the President of Ukraine on the compliance of the Law of Ukraine "On the Accounting Chamber of the Verkhovna Rada of Ukraine" with the Constitution of Ukraine (constitutionality) (the case of the Accounting Chamber).

156 Report on the results of the audit of the effectiveness of the use of budget funds allocated to the Ministry of Defence of Ukraine for the construction (procurement) of housing for the military personnel of the Armed Forces of Ukraine: approved by the decision of the Accounting Chamber of 24.05.2022 No. 11-2.

an audit of the efficiency of the use of state budget funds allocated by the Ministry of Defence for the procurement of clothing supplies and food provision for the military personnel of the Armed Forces of Ukraine.<sup>157</sup> In their reports, the auditors pointed out a number of shortcomings in the use of the MoD funds for these purposes and provided recommendations for their elimination.

Reports of the Accounting Chamber, including those mentioned, often serve as grounds for initiating criminal proceedings<sup>158</sup>, and should also encourage parliamentarians to improve the existing legislation. However, in practice, such reports, at least in the past, could potentially become a means of political pressure on certain institutions or their leadership.<sup>159</sup>

At the same time, some experts argued that the recommendations of the Accounting Chamber are not as effective as desired and were implemented by the audited entities at their discretion.<sup>160</sup> The European Commission was also quite critical in this regard in its 2023 Report on Ukraine, noting that the current impact of the audit work of the Accounting Chamber was minimal, as its effectiveness was assessed based on the number of audits conducted, rather than the actual impact of audit recommendations. There is no formal procedure for monitoring the implementation of the Chamber's audit recommendations. This institution did not produce audit reports that complied with recognised international standards. Instead, these were inspection reports that were not aimed at promoting reforms or identifying systemic issues.<sup>161</sup>

This may be the reason why one of the priorities of the Accounting Chamber Development Strategy for 2019-2024<sup>162</sup> was to increase the level of implementation of recommendations, improve the process of monitoring their implementation and increase accountability for non-implementation or improper implementation. To this end, in 2024, the Accounting Chamber analysed the implementation of its recommendations and assessed their impact on the system of changes in the management of law enforcement and anti-corruption agencies. This study covers the state of implementation of the Accounting Chamber's recommendations based on the results of 16 state external financial control (audit) measures at 10 control objects in the field of law enforcement and anti-corruption<sup>163</sup>, including the SSU, the MoIA, the NPU, the NGU, and the SBGS, which also belong to the security and defence sector of Ukraine. According to a report approved by the Accounting Chamber at the end of August 2024 based on the results of the relevant analysis, the level of implementation

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157 Report of the Accounting Chamber for 2023. P. 36.

158 Information notice on the implementation of the decision of the Accounting Chamber of 24.10.2023 No. 23-2. Accounting Chamber. 2024.  
Information notice on the implementation of the decision of the Accounting Chamber of 24.05.2022 No. 11-2. Accounting Chamber.

159 "Budget watchdog": what the Accounting Chamber really does. Institute of Legislative Ideas.

160 Independence and accountability: the goal of the Accounting Chamber reform. Economic truth: Website. 2023.

161 Ukraine 2023 Report. P. 85.

162 The Development Strategy of the Accounting Chamber of Ukraine for 2019-2024: Decision of the Accounting Chamber of Ukraine of 29.07.2019 No. 18-1.

163 Report on the results of the analysis of the implementation of the Accounting Chamber's recommendations and assessment of their impact on the system of changes in the management of law enforcement and anti-corruption bodies. Accounting Chamber of Ukraine. 2024. P. 7.

of the previously issued recommendations by these ranged from 50% to 96%.<sup>164</sup> For example, to enhance the effectiveness of NGU's powers, issues related to the allocation of a radio frequency spectrum for the operation of unmanned aerial vehicle systems were resolved, and the procedure for suppressing mass riots was regulated, etc.

In May 2024, the Accounting Chamber acquired new powers<sup>165</sup>, specifically the authority to conduct compliance audits, which involve verifying the legality, timeliness and completeness of decision-making process, compliance of the activities of the audited entities with the law and best practices in the relevant field. At first glance, these changes appeared to be a positive step toward enhancing the effectiveness of this institution. However, the Main Legal Department of the Verkhovna Rada in its conclusion noted that such changes are non-systemic, pointwise and cause incomplete legal regulation of the relevant social relations.<sup>166</sup> Nevertheless, in 2024, the Accounting Chamber has already conducted several new types of audits in the security and defence sector, including:

- the Ministry of Defence's activities in the field of procurement, development and modernisation of weapons and military equipment;
- implementing a project to procure unmanned aerial systems and state border surveillance equipment;
- defence procurement of unmanned systems by the Administration of the State Special Communications Service.<sup>167</sup>

For example, the Accounting Chamber approved a report on the results of the first of these audits in June 2024. The relevant meeting was also attended by the leadership of the Ministry of Defence, MPs, including representatives from the Verkhovna Rada Committee on National Security, Defence and Intelligence.<sup>168</sup> In other words, the Accounting Chamber tried to closely cooperate not only with the audited entities in the security and defence sector but also with the Verkhovna Rada overseeing parliamentary control over their activities.

*The process of appointment and dismissal* of 13 members of the Accounting Chamber and the Head of the Chamber by the Verkhovna Rada *has been subject* to constant public criticism. Thus, the Law of Ukraine "On the Accounting Chamber" contained an exhaustive list of grounds for dismissing the Chair and other members of the Accounting Chamber. However, as was the case with the Ukrainian Parliament Commissioner for Human Rights, the Verkhovna Rada utilised amendments to the Law of Ukraine "On the Legal Regime of Martial Law" and, in April 2023, applied the mechanism of expressing no confidence<sup>169</sup>

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164 Ibid. p. 14.

165 On Amendments to Certain Laws of Ukraine on Ensuring the Rights of Servicemen and Police Officers to Social Protection: Law of Ukraine of 21.03.2024 No. 3621-IX.

166 Remarks on the Draft Law of Ukraine on Amendments to Certain Laws of Ukraine on Ensuring the Rights of Servicemen and Police Officers to Social Protection (Reg. No. 10313 of 04.12.2023). Main Legal Department of the Verkhovna Rada of Ukraine.

167 Work Plan of the Accounting Chamber for 2024.

168 The Accounting Chamber has approved the Report on the audit of the Ministry of Defence's activities in the sphere of procurement, development and modernisation of weapons and military equipment. The Accounting Chamber. 2024.

169 On the expression of no confidence in Patskan V.V.: Resolution of the Verkhovna Rada of Ukraine of 23.04.2023 No. 3014-IX.

to the then head of the institution, dismissing him from office on this basis. Despite the appeal against this decision in the court of first instance, the Grand Chamber of the Supreme Court in November 2024 confirmed the legitimacy of the decision made by the Parliament.<sup>170</sup>

The competitive selection process for appointing members of the Accounting Chamber has also been subjected to similar criticism due to its formalistic application in practice.<sup>171</sup> Regarding the appointment of the most recent members and the Chair of this institution, even international partners voiced their concerns, recommending that legislative acts on reforming the Accounting Chamber be adopted first, before proceeding with the appointment of its members.<sup>172</sup> Nevertheless, at the end of 2023, Parliament appointed four new members of the Accounting Chamber.

Since April 2024, a new issue in the implementation of its tasks by the Accounting Chamber has arisen due to the expiration of the term of office of seven of its members and their subsequent dismissal by the Verkhovna Rada. The Accounting Chamber continued its work with only five members instead of required 13. Both the Accounting Chamber and representatives of the expert community stressed that despite the shortage of members, the body could still fulfil its mandate. After all, the transitional provisions of the relevant law stipulate that the meeting of the Accounting Chamber is valid if at least two thirds of the members actually appointed by the Verkhovna Rada are present.<sup>173</sup>

At the same time, at the end of 2024, a significant event took place both in the area of oversight of the use of public funds and the further functioning of the Accounting Chamber. In October 2024, the Verkhovna Rada adopted the Law of Ukraine No. 4042-IX<sup>174</sup>, which aims to address the issues that have been repeatedly pointed out by representatives of the national and international expert community. Thus, the status of the supreme audit institution has finally been enshrined in law, which will strengthen its role and importance in cooperation with similar bodies in the international arena.

Particular attention should also be paid to the provisions of the Law of Ukraine No. 4042-IX, which strengthen the interaction of the Accounting Chamber with the Parliament and, accordingly, contribute to the improvement of the efficiency of implementation of its recommendations. For example, it is envisaged that the parliamentary committees will be obliged to consider at their meetings with the participation of the Accounting Chamber representatives and the audited objects the decisions of the Accounting Chamber on the results of the state external financial control (audit) measures, if recommended by the Chamber itself, as well as information on improper implementation or non-implementation of the recommendations provided by the Chamber. Roksolana Pidlasa, Chair of the Verkhovna Rada Committee on Security, pointed out that this is an element of parliamentary oversight, which the International Monetary Fund, the United States, and SIGMA have all insisted on intro-

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170 Decision of the Grand Chamber of the Supreme Court of 07.11.2024 in case No. 990/108/23.

171 Update of the Accounting Chamber: three main scenarios. Transparency International Ukraine. 2024.

172 Rada votes to appoint new head of the Accounting Chamber: who is she? UNIAN. 2024.

173 Ibid, para. 4<sup>(1)</sup> of Sec. VIII.

174 On Amendments to the Law of Ukraine "On the Accounting Chamber" and Some Other Legislative Acts of Ukraine: Law of Ukraine of 30.10.2024 No. 4042-IX.

ducing. Parliamentary committee review was even a condition for securing budgetary funding.<sup>175</sup>

The Law of Ukraine No. 4042-IX, among other things, strengthened the independence of the Accounting Chamber from the Parliament, both politically and financially. For example, according to the specific provisions of this Law, the powers of the Accounting Chamber cannot be terminated or limited. Similarly, in case of discrepancies between the amount of financial support proposed by the Accounting Chamber and the draft State Budget of Ukraine, the Government must justify its position.<sup>176</sup>

The Law of Ukraine No. 4042-IX also reduced the number of members of the Accounting Chamber from 13 to 11 and established a new selection procedure involving members of the body with the participation of the Advisory Group of Experts, consisting of six persons appointed by the Verkhovna Rada based on proposals of parliamentary factions (groups). For the first eight years after the entry into force of Law No. 4042-IX, half of the members of the group will be appointed by the Government based on proposals from international partners. Additionally, all selection procedures for positions in the Accounting Chamber that had been initiated but remained incomplete at the time of the law's entry into force were declared terminated, and new competitions for vacant positions must now be conducted under the revised procedures.

On 19 December 2024, Roksolana Pidlasa, Chair of the Verkhovna Rada Committee on Budget, announced that she had officially requested the Government to send inquiries to international organisations seeking nominations for candidates to the Advisory Group of Experts.<sup>177</sup> It is expected that after the formation of the Advisory Group of Experts is completed, the competition for the positions of new members of the Accounting Chamber will last approximately nine to ten months. Consequently, throughout 2025, the Accounting Chamber will continue to operate with limited staff, which negatively affects the institutional capacity of this body, particularly considering the expansion of its powers.

A controversial innovation introduced by Law of Ukraine No. 4042-IX is the new powers granted to the Accounting Chamber, allowing it to *conduct state external financial control (audit) over the management of state-owned enterprises, public procurement, receipt and use of local budget funds, etc.* Both the experts and the Main Scientific and Expert Department of the Verkhovna Rada's Secretariat point out the vulnerability of such changes, as the Constitution of Ukraine stipulates that the Accounting Chamber is only authorised to oversee the receipt of funds to the State Budget of Ukraine and their use.<sup>178</sup> Moreover, the implementation of the proposed amendments may lead to duplication of functions and powers of the Accounting Chamber with those of the State Audit Service of Ukraine.<sup>179</sup>

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175 Publication of R. Pidlasa in the social network Facebook.

176 On Amendments to the Law of Ukraine "On the Accounting Chamber" and Certain Other Legislative Acts of Ukraine: Law of Ukraine of 30.10.2024 No. 4042-IX.

177 Publication of R. Pidlasa in the social network Facebook.

178 Opinion of the Main Scientific and Expert Department of the Verkhovna Rada of 17.09.2024 No. 16/03-2024/202027 on the Draft Law of Ukraine "On Amendments to the Law of Ukraine "On the Accounting Chamber" and Certain Other Legislative Acts of Ukraine".

179 Letter of the Association of Ukrainian Cities of 01.10.2024 No. 5-772/24.

Overall, the provisions of Law of Ukraine No. 4042-IX, if effectively implemented in practice, should have a positive impact on the future activities of the Accounting Chamber, including increasing the credibility of this institution and the results of its audits.

## 6.1. "White Papers" in the Field of Security and Defence

One of the auxiliary sources of information on the effectiveness of budget spending is the analytical document "White Paper", which is periodically published to inform the public about the activities of the Ministry of Defence, the Armed Forces and the State Special Transport Service, the state of implementation of development measures, and to ensure the validity of decisions of military authorities on national security and defence and military development. The first such paper was planned to be published in 1998, but due to various circumstances, it was only possible to do so in 2005. Since then, sixteen editions of the White Paper "The Armed Forces of Ukraine" have been released.

The expert community considers this communication mechanism to have proven itself quite effective. It has been taken into account during the annual budget planning and is in fact a tool for accountability of the security and defence sector to the public and the Verkhovna Rada in the context of democratic civilian control.<sup>180</sup> Despite this successful practice, in 2018, the Parliament amended the Law and established that White Papers or other analytical documents (reviews, national reports, etc.) must be issued periodically by the security and defence agencies, but *at least once every three years*. The most recent publication issued by the Ministry of Defence in 2022 is White Paper – 2021: Ukraine's Defence Policy.

The practice of publishing White Papers has also been adopted by other Ukrainian security and defence institutions, namely: the SBGS published its own White Papers in 2019 and 2020; the NGU<sup>181</sup> published three books in 2015-2017; the SSU published two white papers in 2007-2008.<sup>182</sup> In 2021, the Foreign Intelligence Service also presented some aspects of its activities by publishing its own White Paper.<sup>183</sup>

The approach taken by various agencies in shaping the content of White Papers has generally followed a similar pattern and has evolved consistently over the years.<sup>184</sup> Initially, these documents contained a general overview of the current state of the security and defence agencies, their development prospects. Over time, the content of these documents expanded to include statistical and illustrative materials, successful examples of mandate implementation, assessment of challenges in the activities of a particular body, as well as information on international cooperation. Overall, these documents serve as a distinct form of reporting on their activities to the Parliament and the Government, but primarily, they act as a tool for informing the public.

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180 Yashchenko V. A., Pylypchuk V. H., Bohutskyi P. P., Dovhan O. D., Doronin I. M., Petryshyn O. V. Democratic civilian control over the security and defence sector: Theory and practice: Textbook / Research Institute of Informatics and Law of the National Academy of Sciences of Ukraine. Kyiv; Odesa: Phoenix. 2020. P. 103.

181 Ukrainian Military Pages.

182 White Paper "Security Service and Intelligence Agencies of Ukraine". 2007. White Paper "Security Service of Ukraine". 2008.

183 White Paper "The Foreign Intelligence Service of Ukraine". 2021.

184 Doronin I.M. Defence "White Papers": legal aspects of informing the society about the activities of the security and defence sector in the context of public control / Information and Law. Issue No. 4(27). P. 90-97.

### ***How this works in NATO member states***

In NATO member states, White Papers serve as strategic documents that help define defence and national security policies, unlike their Ukrainian counterpart. They are officially approved and often have set deadlines for development. The primary focus of White Papers in most NATO member states is to outline strategic defence objectives and priorities for the development of the armed forces. These documents serve as the main framework for the implementation of the defence strategy, outlining budget priorities, guiding military modernisation and, in some countries, investments in the latest technologies. It is worth noting that the documents are not necessarily titled “White Papers”. The distinction is made by the content of the document and its purpose.<sup>185</sup>

**France's** White Paper on Defence and National Security<sup>186</sup> aims to identify threats and countermeasures. It outlines the general directions of defence and national security, thus defining the country's strategic doctrine. It also serves as a thought-provoking tool for the drafting of laws on military programming.

In **Romania**, the 2021 Defence White Paper<sup>187</sup> is the most important document for the implementation of the National Defence Strategy 2020-2024 and at the same time the main departmental planning document at the level of the Romanian Ministry of National Defence, which serves as a basis for other documents (e.g. the Military Strategy and the Defence Planning Directive).

At the same time, annual reports from defence ministries of NATO member states are seen as a tool for informing the public and parliament about budget execution, goal implementation and resource management. Additionally, they focus on management challenges and risks, which makes it possible to identify weaknesses and plan improvements.<sup>188</sup>

For example, the **Lithuanian** Ministry of National Defence annually reports to the government on the activities and achievements of the previous year.<sup>189</sup> The report is structured to evaluate objectives and specific tasks rather than merely describe the status of activities. The method and approach are result-oriented. Additionally, the Ministry of National Defence prepares annual and quarterly financial reports.<sup>190</sup>

In the context of a full-scale invasion, it may be justified to stop publishing white papers or other analytical documents describing the current state of affairs and prospects for the development of the security and defence sector in order to preserve important information from the enemy, but this practice should be resumed after the end of hostilities. At the same time, a unified structure for the content of white papers for security and defence institutions should be defined and experts, academics and other specialists in the relevant field should be involved in their development.

185 According to the materials provided by the PROTECT2 Project.

186 French white paper. 2013.

187 Carta albă a apărării, P. 7. Ministerul apărării naționale.

188 According to the materials provided by the PROTECT2 Project.

189 2023 METU VEIKLOS ATASKAITOS PATEIKIMO.

190 According to the materials provided by the PROTECT2 Project.

## 7. Other Instruments Parliamentary Oversight in the Security and Defence Sector

To exercise its oversight function, the Parliament can also use other mechanisms, including “Government Question Hour”, annual reports, parliamentary hearings, hearings of officials or officers from security and defence sector bodies, parliamentary inquiries and requests.

### 7.1. “Government Question Hour”

“Government Question Hour” is a tool used by parliamentarians around the world to address questions to members of the government, including the prime minister, regarding the political decisions they have made. These questions may be posed to government officials either in writing (submitted within a predetermined period to allow for response preparation) or orally.

Historically, this instrument of parliamentary oversight originated in the Westminster system in the United Kingdom and eventually spread to other countries. In most democratic states, time for questions is allocated at least once a week (or less frequently – once a month in countries such as Tunisia and Senegal) when the parliament is in session. At the same time, “Government Question Hour” may be directly included in the weekly schedules of parliamentary sittings or conducted regularly (as a daily function).

#### ***How this works in NATO member states***

In the **United Kingdom**, the House of Commons' oral question period for government departments lasts for one hour from Monday to Thursday, following the completion of preliminary procedures. The list of questions must be submitted to the relevant department at least three days before the “Government Question Hour”. Interestingly, the order in which questions are asked is determined randomly using computer systems. On the day of the Government Question Hour, a list of questions is published in the Business Today newspaper. The House of Commons has the opportunity to pose questions to the Prime Minister every Wednesday from 12:00 to 12:30. According to the official website of the British Parliament, in 2024, the UK Secretary of State for Defence was questioned in this format at least six times. The issues raised to the head of the defence ministry also concerned military support for Ukraine.<sup>191</sup>

Questions from peers in the House of Lords may only be directed to the government as a whole, not individual departments (unlike the practice of the House of Commons), and are addressed at the beginning of the working day and last up to 30 minutes from Monday to Thursday.<sup>192</sup>

During the “Question Hour”, members of the Seimas may ask members of the government questions of public importance. The chairperson of the session may permit not to answer a question that, in their opinion, is irrelevant or lacks public significance.<sup>193</sup>

191 UK Parliament.

192 Question Time. UK Parliament.

193 Statute of the Seimas of the Republic of Lithuania of 17.02.1994 No. I-399, part 2, Article 200.

In Ukraine, the "Government Question Hour" is to be held every Friday during plenary sessions, based on pre-determined topics, including those related to security and defence. Prior to the full-scale invasion, the "Government Question Hour" was an important communication mechanism between the Parliament and government officials, where MPs could receive answers to their questions. However, due to the full-scale invasion, this practice was suspended for a prolonged period (until October 2023).

During 2024, **13** "Government Question Hour" sessions<sup>194</sup> were held, the most recent one was attended by First Deputy Minister of Defence Ivan Havryliuk. In general, MPs' questions mainly concerned the demobilisation of service members, the allocation of personal income tax for military needs, as well as high-profile cases concerning the activities of certain territorial recruitment and social support centres. At the same time, MPs were reminded that questions that might contain information with restricted access under martial law should be addressed to the security and defence sector in writing.

To a certain extent, restrictions on the use of this instrument can be justified by the need to protect confidential information from the enemy and can be compensated through other mechanisms (such as holding meetings with MPs within the framework of committees, etc.), as is the case in practice. However, when the war ends, the "Government Question Hour" should be fully restored as soon as possible, including questions related to the security and defence sector.

## 7.2. Parliamentary Hearings

Parliamentary hearings are held to examine issues of public interest that require legislative regulation. Back in the early 2000s, experts of the Agency for Legislative Initiatives pointed out the importance of parliamentary hearings, in particular, they logically complement the mechanisms of parliamentary oversight over the Government's activities and have a positive influence the exercise of legislative, oversight and appointment powers by the Parliament.<sup>195</sup>

Parliamentary hearings in the Verkhovna Rada are conducted during the session period, usually no more than once a month, on weekdays allocated for the work in committees and parliamentary factions (parliamentary groups). Out of 143 parliamentary hearings held in 2003-2020, only 5 were related to the security and defence sector<sup>196</sup>, for example: "On the state and prospects of development of the military organisation and security sector of Ukraine" (2012); "Defence capability of Ukraine in the XXI century: challenges, threats and solutions" (2014); "On the military medical doctrine of Ukraine" (2016), etc. No parliamentary hearings have been held since the outbreak of the Covid-19 pandemic, and the planned hearings have been postponed.<sup>197</sup>

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194 According to the information published on the official website of the Verkhovna Rada of Ukraine.

195 World practice and Ukrainian experience in using the mechanism of parliamentary hearings and committee hearings as an instrument of the parliamentary oversight. Information and Analytical Study. - Kyiv: Agency for Legislative Initiatives. 2004. P. 5.

196 Chronicle of Parliamentary Hearings (IX Convocation). Verkhovna Rada of Ukraine.

197 "On Certain Specifics of Holding Parliamentary Hearings During the Quarantine Period in Ukraine: Resolution of the Verkhovna Rada of Ukraine of 05.11.2020 No. 975-IX.

As such, parliamentary hearings should have a positive impact on shaping state policy in general, in particular as a tool of oversight. However, due to **the low level of further implementation of the recommendations issued as a result of such hearings by the relevant state authorities, it is difficult to argue that such oversight instrument is effective in practice**. Even the Verkhovna Rada acknowledged that the decisions it adopted, including those outlined in the Recommendations of the parliamentary hearings titled "On the state and prospects of development of the military organisation and security sector of Ukraine", were implemented very slowly, and some of them were not implemented at all.<sup>198</sup>

However, some recommendations of the parliamentary hearings did have certain impact on the security and defence sector. For example, it was in view of the recommendations of the parliamentary hearings on "Ukraine's defence capability in the 21<sup>st</sup> century: challenges, threats and solutions"<sup>199</sup>, that the National Security and Defence Council of Ukraine adopted in August 2014 a decision on urgent measures to protect Ukraine and strengthen its defence capability<sup>200</sup>, where it defined further development of Ukraine's strategic partnership with the US, EU and NATO as a priority national interest in the field of foreign policy in 2014 and the following years. The implementation of this decision resulted in the adoption by the Verkhovna Rada of the Law of Ukraine of 23 December 2014 No. 35-VIII "On Amendments to Certain Laws of Ukraine Regarding Ukraine's Renunciation of the Non-Aligned Policy", the approval of the new Military Doctrine of Ukraine, the liquidation by the President of the Committee on Reform and Development of the Armed Forces of Ukraine and the Defence Industry, etc.

At the end of 2020, MPs decided to strengthen the legal weight of the parliamentary hearings recommendations and stipulated in the Rules of Procedure of the Verkhovna Rada of Ukraine that a resolution approving such recommendations must include:

- deadlines for providing information on the status of implementation of recommendations;
- if necessary, a plan for holding discussions (roundtables, public discussions, committee hearings, etc.) on the status of their implementation;
- a list of draft laws required to implement the recommendations, and an estimated timeframe for their development and submission;
- a list of committees tasked by the Verkhovna Rada with drafting relevant laws;
- a list of other measures aimed at implementing the recommendations and monitoring their implementation.<sup>201</sup>

However, it remains difficult to access these provisions, given that the most recent initiatives of MPs to hold parliamentary hearings were submitted to the Verkhovna Rada in 2021

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198 On the Recommendations of the Parliamentary Hearings on the topic: "Ukraine's defence capability in the XXI century: challenges, threats and solutions": Resolution of the Verkhovna Rada of Ukraine of 12.08.2014 No. 1639-VII.

199 Ibid.

200 On urgent measures to protect Ukraine and strengthen its defence capability: Decision of the National Security and Defence Council of Ukraine of 28.08.2014.

201 On Amendments to Certain Laws of Ukraine to Ensure Effective Implementation of Parliamentary Oversight: Law of Ukraine of 03.12.2020 No. 1052-IX, clause 5, para. 7, section I.

and were subsequently withdrawn from consideration.<sup>202</sup> In fact, these innovations have not yet been implemented in practice.

#### ***How this works in NATO member states***

Overall, parliamentary hearings as a form of parliamentary oversight, are not widespread in other countries - usually oversight in the form of hearings is carried out by committees rather than the parliament, which helps to narrow down the topics of hearings and use time effectively.<sup>203</sup>

Since parliamentary hearings have not been held for more than four years, it may be worth reconsidering the feasibility of using this instrument of parliamentary oversight altogether. In this case, hearing the opinions of representatives of public authorities, experts and other stakeholders on issues of public interest - including security and defence - would be limited to committee hearings, which are already a common practice. Such a decision would, first, increase the productivity of hearings by reducing the number of unauthorised participants; secondly, it will increase the level of implementation of the recommendations provided.

### **7.3. Annual Reports and Hearings with Officials from Security and Defence Sector Agencies**

According to legal requirements<sup>204</sup>, the SSU, the SBGS and the DSP are required to submit annual written reports on their activities to the Parliament. These reports are made available to MPs and simultaneously forwarded to relevant committees, including the Committee on National Defence, Security and Intelligence, in order to prepare issues for consideration at the plenary session of the Parliament. Until 2022, these reports were also published on the official website of the Verkhovna Rada<sup>205</sup>, but for obvious reasons, such materials are no longer publicly accessible.

There is currently no unified approach to the content and format of annual reports submitted by public authorities. For the most part, the legislation merely requires that such reporting be conducted. However, there are certain cases when the law explicitly defines the information to be included in a written report of a certain agency (e.g., the State Bureau of Investigation, the Bureau of Economic Security of Ukraine).<sup>206</sup> The requirements for the structure of the written report, as well as the specifics of its review, are also outlined in the Draft Law No. 3196-d.

202 See, for example, the Draft Resolution of the Verkhovna Rada of Ukraine "On holding parliamentary hearings on the principles of the state Policy of sustainable development of Ukraine" (15 December 2021), registration No. 6066 of 16.09.2021. Verkhovna Rada of Ukraine.

203 Parliamentary Oversight: Practical Tips and Tricks to Improve Efficiency. P. 42.

204 On the Security Service of Ukraine: Law of Ukraine of 25.03.1992 No. 2229-XII, Article 31.  
On the State Border Guard Service of Ukraine: Law of Ukraine of 03.04.2003 No. 661-IV, Article 29.  
On State Protection of State Authorities of Ukraine and Officials: Law of Ukraine of 04.03.1998 No. 160/98-VR, Article 25.

205 Exercise of Oversight Functions by the Verkhovna Rada of Ukraine. Verkhovna Rada of Ukraine.

206 On the State Bureau of Investigation: Law of Ukraine of 12.11.2015 No. 794-VIII, part 3, Article 23.  
On the Bureau of Economic Security of Ukraine: Law of Ukraine of 28.01.2021 No. 1150-IX, part 2, Article 35.

In this regard, the European Parliament's Needs Assessment Mission chaired by Pat Cox in its Roadmap for Internal Reform and Institutional Capacity Building of the Verkhovna Rada<sup>207</sup> almost 10 years ago noted that the Parliament, together with the Government, should develop a unified format and structure for annual reports of ministries on the implementation of their respective policy documents (Recommendation 14, not yet implemented). The same recommendation should be applied to the reports of the security and defence sector agencies.

#### ***How this works in NATO member states***

The **US** Secretary of Defence annually submits a written report to the President and Congress on the expenditures, operations, and accomplishments of the Department of Defence during the reporting period, including: a report from each branch of the armed forces on the expenditures, operations, and accomplishments of that branch; itemised reports showing savings of public funds and the elimination of unnecessary duplication; and any recommendations the Secretary deems necessary. In addition, the Secretary of Defence includes in the annual report to Congress a description of the significant military missions and the structure of the US Armed Forces for the next fiscal year; an explanation of the relationship between these military missions and the force structure; and a justification of these military missions and force structure.<sup>208</sup>

The heads of state institutions appointed by the Seimas of **Lithuania** or whose appointment requires the approval of the Seimas are required to submit annual reports (usually by 1 May) of the institution they head, together with an audit report, if an audit is mandatory. Such reports are submitted to the Seimas committees based on their areas of competence. If necessary, a set of annual reports of a state institution is also presented at a Seimas plenary session. Following the presentation of the annual report by the relevant public authority to a committee and/or during a Seimas plenary session, members of the Seimas may ask the head of the public authority questions regarding the content of the annual report.<sup>209</sup> For example, in February 2024, the Intelligence Ombudsperson's Office of the Republic of Lithuania submitted to the Seimas an annual unclassified assessment of the legality of the activities of intelligence agencies and compliance with the human rights and freedoms in 2023, along with a Report on the activities of the State Security Department of the Lithuania.<sup>210</sup>

To clarify certain issues, particularly those related to high-profile events in society, the Parliament also has the authority to summon or invite officials from the security and defence sector to provide information. For example, this may include inquiries into cases involving the persecution of certain members of the public in connection with their activities or the expression of personal views regarding specific events (such as the case involving perse-

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207 Report and Roadmap on Internal Reform and Institutional Capacity Building of the Verkhovna Rada of Ukraine. 2015-2016. P. 13.

208 United States Code, Sec. 113, Title 10.

209 Statute of the Seimas of the Republic of Lithuania of 17.02.1994 No. I-399.

210 Annual unclassified assessment of the legality of the activities of intelligence agencies and compliance with the requirements for the protection of human rights and freedoms for 2023, Report of the Intelligence Ombudsperson's Office of the Republic of Lithuania. 2024.

cution and aggression by the SSU against Ukrainian historians from the National Museum-Memorial to the Victims of Occupation Regimes “Lontsky Prison” (2010)<sup>211</sup> or the case of pressure on staff members of the investigative journalism project Bihus.Info (2024)<sup>212</sup>. Similarly, events related to certain controversial decisions made by public authorities under martial law may be the subject of discussion (for instance, mobilisation measures against employees of the State Emergency Service of Ukraine (2024)<sup>213</sup>). However, in practice, **such summons and invitations from the Parliament may be disregarded by officials** from the security and defence agencies. One such example is the failure of the Head of the SSU to appear before the Verkhovna Rada upon its summons in February 2024.<sup>214</sup>

Special mention should be made of the reports delivered by heads of security and defence sector prior to their dismissal. In this case, the Verkhovna Rada, which is authorised to dismiss or give consent to the dismissal of the relevant official, has the opportunity to hear a report on the outcomes of that official’s tenure – either within the relevant committee or directly at a plenary session. For example, on 4 September 2024, the former Minister for Strategic Industries O. Kamyshyn in the context of his dismissal procedure, presented a report on his achievements in office to the parliamentary Committees on National Security, Defence and Intelligence, and on Economic Development, followed by a general address to Parliament.<sup>215</sup>

Such reports are rather an exception to the rule, as neither the Law of Ukraine “On the Cabinet of Ministers of Ukraine” nor other special legislation requires reporting by the heads of the security and defence agencies before their dismissal. Although Draft Law No. 3195<sup>216</sup> proposes to require members of the Government to report to the Verkhovna Rada on the outcomes of their tenure in case of resignation. This draft law, after being adopted by the Parliament as a basis in 2020, remains under revision in the Committee on State Building, Local Self-Government, Regional Development and Urban Planning.

## 7.4. MPs' Inquiries and Appeals

The right of MPs to submit parliamentary inquiries and appeals may also be regarded as a form of parliamentary oversight – an instrument which, according to information from the Verkhovna Rada, is actively used.

Under Ukrainian legislation, a **parliamentary inquiry** is a request by an MP or a group of MPs to the President, the government as a whole or a specific minister or official of an

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211 On hearing the report of the Head of the Security Service of Ukraine, Valerii Khoroshkovskyyi, on the persecution and aggression of the Security Service of Ukraine against Ukrainian historians of the National Museum-Memorial to Victims of Occupation Regimes “Lontsky Prison” and other actions aimed at concealing the historical truth from society (24 September 2010): Draft Resolution of the Verkhovna Rada of Ukraine, registration No. 7135 of 17.09.2010.

212 Session of the Verkhovna Rada of Ukraine of 06.02.2024. Verkhovna Rada of Ukraine.

213 Session of the Verkhovna Rada of Ukraine of 04.06.2024. Verkhovna Rada of Ukraine.

214 Publication of the Member of the Parliament Y. Zhelezniak in the Telegram channel of 06.04.2024.

215 Transcript of the plenary session of the Verkhovna Rada of Ukraine of 04.09.2024.

216 On Amendments to Certain Legislative Acts of Ukraine on Improving the Procedure for Appointment and Dismissal of Members of the Cabinet of Ministers of Ukraine: Draft Law of Ukraine, registration No. 3195 of 10.03.2020.

enterprise, institution or organisation, declared during a session of the Verkhovna Rada, to give an official response on issues within their competence. Instead, **a parliamentary appeal** is interpreted as a proposal from an MP directed to public authorities (other institutions, enterprises and organisations) to take certain actions, provide official explanations or state a position on matters within its competence. Often, such inquiries and appeals are a response by MPs to requests from citizens or individual legal entities regarding the exercise of their rights and freedoms.

Unlike an appeal that an MP sends to a specific addressee, an MP's inquiry – as well as a response to it – undergoes a separate procedure of consideration and recording at a Parliament session. The difference also lies in the response timelines: the addressee must respond to the inquiry within 15 days, while the appeal can be processed from 10 to 30 days depending on the complexity of the issue raised.<sup>217</sup>

In addition, the parliamentary inquiry and the response to it are published on the official website of the Verkhovna Rada<sup>218</sup> in compliance with the legislation on personal data protection and protection of state secrets. Thus, out of **650** parliamentary inquiries sent by MPs from 1 September 2023 to 20 January 2025, only **57** were addressed to the security and defence agencies: SSU - **9**, MoD - **19**, Special Communications Service - **6**, General Staff of the AFU - **11**, National Security and Defence Council of Ukraine - **4**, DSP - **1**, MoIA - **2**, Land Forces Command of the AFU - **1**, SBGS - **2**, Ministry of Strategic Industries of Ukraine - **2**. Another 17 MPs' inquiries out of this total number were sent to the Government. A total of **56** inquiries were sent to the President of Ukraine, most of which concerned the awarding of state honours to service members.

Most frequently, MPs requested information concerning service members and the protection of their rights (search for missing military personnel, provision of one-time financial assistance and other payments, etc.); the volume of procurement and production of unmanned aerial vehicles; the crossing of state border by Ukrainian citizens and foreign nationals; strengthening the defence capabilities in areas adjacent to the borders of aggressor states, etc. At the same time, separate requests regarding the same issue were sent to several addressees or repeatedly.

#### **How this works in NATO member states**

*In France, MPs may pose questions to all ministers, including the Minister of Defence. These questions - both written and oral - are an important tool for keeping MPs informed and for monitoring the government's activities. The minister is required to respond to written questions within two months. At the same time, questions and answers are published weekly in the Official Journal.*<sup>219</sup>

In 2018, the experts of the Civil Network OPORA highlighted certain issues related to the use of such a parliamentary oversight tool as a parliamentary inquiry:

<sup>217</sup> On the Status of a Member of Parliament of Ukraine: Law of Ukraine of 17.11.1992 No. 2790-XII, Articles 15-16.

<sup>218</sup> Verkhovna Rada of Ukraine.

<sup>219</sup> According to the materials provided by the PROTECT2 Project.

- untimely responses;
- formal consideration without proper justification;
- lack of financial, economic and legal analysis in the response;
- insufficient professional analytics and recommendations for problem resolution;
- inadequate control over the implementation of MPs' inquiries;
- overlapping mandates and areas of responsibility among state authorities<sup>220</sup>.

These identified issues are generally also characteristic of the handling of MPs' appeals.

Even though the Code of Ukraine on Administrative Offences contains a separate administrative offence – failure to comply with the statutory deadlines for responding to an inquiry or appeal from a member of parliament, or failure to provide response, or providing false or incomplete information on such an inquiry or appeal (Article 188(19) (1) and (2)), certain institutions, enterprises and organisations continue to violate the relevant legal provisions. According to official statistics, in 2023, the courts of first instance reviewed **11** cases of administrative offences under this article in total. In only 3 of these cases was an administrative penalty in the form of a fine imposed on the offenders, totalling UAH 17,000.<sup>221</sup> In 2022, twice as many such cases were under consideration by the courts (**22**), of which only **1** case resulted in a decision to impose a fine of UAH 8,500 on the offender.<sup>222</sup>

Additionally, if an official fails to comply with the legal requirements of an MP (e.g., fails to respond to an MP's inquiry), or provides knowingly false information, the MP has the right to file a complaint with law enforcement authorities regarding the commission of a criminal offence under part 1 of Article 351 of the Criminal Code of Ukraine. In 2023, **3** cases under this article were pending before the courts of first instance.

Therefore, to improve the handling of MPs' appeals and inquiries, ***it is necessary to establish at the legislative level which specific information the addressee's response must contain, as well as to enhance oversight over the provision of such responses.***

## 7.5. Interpellation and Parliamentary Debates - Potential Instruments in Ukrainian Parliamentarism

In addition to the instruments of parliamentary oversight outlined in the Green Book, European countries also use interpellation and parliamentary debates, particularly with the regard to the security and defence sector.

**Parliamentary debate** (from the French *debattre* – to argue/discuss) is an oral exchange of opinions to facilitate the collective decision-making of the parliament on certain matters. Debates may occur on special occasions, such as during opening speeches or at different stages of the consideration of draft laws. In addition, parliamentary debates can be devoted to issues chosen by the MPs themselves or highlight the work of parliamentary committees.

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<sup>220</sup> How do they do that? MP's inquiry. Rada OPORA UA: Website. 2018.

<sup>221</sup> Report of the courts of first instance on consideration of cases on administrative offences. Judiciary. 2023.

<sup>222</sup> Report of the courts of first instance on consideration of cases on administrative offences. Judiciary. 2022.

The rules of procedure for parliamentary debates provide an opportunity for parliamentary political groups to express their opinions or draw attention to certain issues.<sup>223</sup>

*For example, in **Portugal**, debates are scheduled by the President of the Assembly after consultation with the Conference of Leaders and the government. At the same time, various types of parliamentary debates are distinguished: on the report on the progress in government oversight, debates with the Prime Minister, sectoral debates with ministers, European debates, emergency debates, thematic debates, and others.*

*Sectoral debates with ministers cover all issues within the competence of a specific minister. However, debates with the same minister cannot be repeated during the same legislative session, nor in two consecutive debates.<sup>224</sup> In the context of the security and defence sector, the most recent debates with the Minister of National Defence date back to 2007.<sup>225</sup>*

The Rules of Procedure of the Verkhovna Rada do not provide for the use of parliamentary debates as a distinct oversight mechanism. The only passing mention of debates is found in part 2 of Article 27 of this act and concerns certain aspects of the duties of the chair of the plenary session.<sup>226</sup> Similarly, the Law of Ukraine "On the Status of a Member of Parliament of Ukraine" states that an MP has the right to participate in debates during plenary sessions of the Verkhovna Rada, among other things. However, like the Rules of Procedure, this Law provides no further details regarding the procedure for holding such debates.

Draft Law No. 2267<sup>227</sup> on the introduction of parliamentary debates into Ukrainian legislation, registered in October 2019 by a group of MPs, is currently under consideration in the Parliament. This draft law provides for the possibility of using parliamentary debates during the consideration of draft laws in the first reading that are of great public importance, affect the property rights of the Ukrainian people or directly affect the constitutional rights of citizens. At the same time, Draft Law No. 2267 itself contains several controversial issues, including procedural ones, which were noted in the opinion of the MSED. In February 2020, the Main Committee decided to recommend to the Verkhovna Rada to return the draft law for revision following its consideration in the first reading.

**Interpellation** is a form of parliamentary oversight that involves MPs discussing the activities of the executive branch. In general, it can be described as follows: members of parliament gain the right to summon government representatives to Parliament so that government officials or a specific member of the government may explain their policy, certain

223 Tools for parliamentary oversight: A comparative study of 88 national parliaments / Written and edited by Hironori Yamamoto. – Geneva: Inter-Parliamentary Union. 2007. 62 p.

224 Regulation of the Assembly of the Republic of Portugal of 31.08.2020 No. 1/2020, Article 224-B, section IV.

225 According to the analysis of information available on the Assembly's website.

226 "During the report, co-report, and **debate** of the chair of the plenary session, consideration of a proposal submitted by them that is not of a procedural nature and adoption of decision thereon, as well as during consideration of a matter personally concerning the chair of the plenary session, the conduct of the plenary session shall be entrusted to the First Deputy or Deputy Chair of the Verkhovna Rada of Ukraine."

227 On Amendments to the Law of Ukraine "On the Rules of Procedure of the Verkhovna Rada of Ukraine" (regarding the application of the special procedure of parliamentary debate): Draft Law of Ukraine, registration No. 2267 of 16.10.2019.

documents, or actions. Members of parliament may pose questions to government officials or hold debates on the results of the government's presentation. Sometimes such debates can result in a vote of no confidence.<sup>228</sup>

In general, interpellation is similar to "Government Question Hour", which in some cases results in the accountability of the government or some of its members. This instrument of parliamentary oversight is inherent in many EU countries, and therefore in NATO: Poland, Germany, France, Spain, Italy, the Netherlands, the Czech Republic, Croatia, Romania, etc., depending on the specifics of a particular country.

*In **Croatia**, to initiate an interpellation, at least ten MPs must address the Speaker of the Parliament (Sabor). An interpellation opens a session of the Sabor to discuss the work of the government as a whole or individual decisions of the government or a ministry (if they deviate from the general position of the government) regarding the implementation of laws or policies. An interpellation may also be submitted if an MP is not satisfied with the further additional written response of the government or a member of the government to the question posed. The Parliament concludes the discussion of the interpellation by adopting a position on the issue raised in the interpellation and the conclusions reached. After determining its position on the interpellation, the Sabor may raise the issue of government responsibility or a vote of no confidence in the Prime Minister, a member of the government or the government as a whole.<sup>229</sup>*

*An example of Sabor applying this instrument in the security and defence sector was the interpellation on the actions of the Government of the Republic of Croatia regarding the procurement of a squadron of multi-role combat aircraft.<sup>230</sup>*

There is no concept of "interpellation" in the Ukrainian legal framework; however, as with parliamentary debates, some Members of Parliament have attempted to introduce it.

In May 2020, a group of MPs registered Draft Law No. 3499<sup>231</sup> on interpellation to exercise parliamentary oversight over the government's activities in terms of establishing the responsibility of individual members of the Cabinet of Ministers of Ukraine and exercising the power of the Verkhovna Rada to dismiss them from office.

Draft Law No. 3499 proposed that interpellation could be initiated before the Speaker of the Verkhovna Rada by at least 45 MPs or a committee of the Parliament responsible for the area of activity of a particular member of the Government. If, based on results of the interpellation, the work of a member of the government is found to be unsatisfactory, the Prime Minister would be required to submit a motion to the Verkhovna Rada to dismiss that member of the Cabinet of Ministers of Ukraine. In the case of the Minister of Defence, such a motion was to be submitted by the President.

228 Interpellation: What is proposed to be introduced in Ukraine? Agency for Legislative Initiatives. 2020.

229 Regulation of the Croatian Sabor of 2020, Articles 145-151, Chapter V, Part 7.

230 Interpretation about the Vlade Republik Hrvatske radio postupanja Vlade Republik Hrvatske vezanih uz nabavku eskadrile višenamjenskih borbenih aviona - podnositelji: 16 zastupnika u Hrvatskome saboru. Hrvatski Sabor. 2019.

231 On Interpretation: Draft Law of Ukraine, registration No. 3499 of 18.05.2020.

However, despite the positive feedback on the idea of introducing interpellation into the Parliament's activities, four months after submission for registration, the draft law was withdrawn from consideration due to critical comments from both the MSED, MPs and representatives of the expert community.

# Annexes

## Annex 1

### **List of National Legislative Acts in the Field of Security and Defence**

1. Constitution of Ukraine.
2. Law of Ukraine "On the Rules of Procedure of the Verkhovna Rada of Ukraine".
3. Law of Ukraine "On the Cabinet of Ministers of Ukraine".
4. Law of Ukraine "On National Security of Ukraine".
5. Law of Ukraine "On the Armed Forces of Ukraine".
6. Law of Ukraine "On Economic Activity in the Armed Forces of Ukraine".
7. Law of Ukraine "On the Legal Regime of Property in the Armed Forces of Ukraine".
8. The Law of Ukraine "On the Use of Defence Land".
9. Law of Ukraine "On Military Law Enforcement Service in the Armed Forces of Ukraine".
10. Law of Ukraine "On the Disciplinary Statute of the Armed Forces of Ukraine".
11. The Law of Ukraine "On the Drill Statute of the Armed Forces of Ukraine".
12. Law of Ukraine "On the Garrison and Guard Duty Statute of the Armed Forces of Ukraine".
13. Law of Ukraine "On the Statute of the Internal Service of the Armed Forces of Ukraine".
14. Law of Ukraine "On the Defence of Ukraine".
15. Law of Ukraine "On the Security Service of Ukraine".
16. The Law of Ukraine "On State Secrets".
17. Law of Ukraine "On the National Security and Defence Council of Ukraine".
18. Law of Ukraine "On the State Special Transport Service".
19. Law of Ukraine "On the Principles of Domestic and Foreign Policy".
20. The Law of Ukraine "On Central Executive Authorities".
21. Law of Ukraine "On the National Guard of Ukraine".
22. Law of Ukraine "On the Legal Regime of Martial Law".
23. Law of Ukraine "On the Basic Principles of Ensuring Cybersecurity of Ukraine".
24. The Law of Ukraine "On Defence Procurement".
25. The Law of Ukraine "On Intelligence".
26. Law of Ukraine "On Counterintelligence Activities".

27. The Law of Ukraine "On the Fundamentals of National Resistance".
28. The Law of Ukraine "On State Protection of Public Authorities of Ukraine and Officials".
29. Law of Ukraine "On the State Service for Special Communications and Information Protection of Ukraine".
30. Law of Ukraine "On the State Border Guard Service of Ukraine".
31. The Law of Ukraine "On Border Control".
32. Law of Ukraine "On the State Border of Ukraine".
33. Law of Ukraine "On the National Police".
34. Law of Ukraine "On Social and Legal Protection of Service Members and Members of Their Families".
35. The Law of Ukraine "On Pension Provision for Persons Discharged from Military Service and Certain Other Persons".
36. The Law of Ukraine "On the Status of Veterans of Military Service, Veterans of Law Enforcement Agencies, Veterans of the National Police and Some Other Persons, and Their Social Status".
37. Law of Ukraine "On the Status of War Veterans and Guarantees of Their Social Protection".
38. Law of Ukraine "On Military Duty and Military Service".
39. Law of Ukraine "On Alternative (Non-military) Service".
40. Law of Ukraine "On Mobilisation Preparedness and Mobilisation".
41. Law of Ukraine "On State Control of International Transfers of Military and Dual-Use Goods".
42. Law of Ukraine "On the Participation of Ukraine in International Peacekeeping and Security Operations".
43. Law of Ukraine "On the Procedure for Deployment of Units of the Armed Forces of Ukraine to Other States".
44. The Law of Ukraine "On the Procedure for Admission and Conditions of Stay of Units of the Armed Forces of Other States on the Territory of Ukraine".

## Annex 2

**Temporary Special Commissions Whose Activities Concern Matters  
of National Security and Defence**

No.	Convocation	Name of the temporary special commission	Details of the act establishing the commission	Reporting on activities	Details of the act on approval of the report	Outcome of the commission's activities	Status of implementation of the commission's recommendations
1	IV	Temporary Special Commission of the Verkhovna Rada of Ukraine to Analyse the Situation in the Armed Forces of Ukraine, the Progress of Their Reform, Summarise the Problems in this Area and Prepare Proposals in Connection with the "Day of Government of Ukraine" on 12 November 2002.	Resolution of the Verkhovna Rada of Ukraine of 26.09.2002 No. 167-IV	No report available	—	—	—
2	IV	Temporary Special Commission of the Verkhovna Rada of Ukraine to Monitor the Implementation of the Recommendations of the Parliamentary Hearings "On Ukraine-NATO Relations and Cooperation" and the NATO-Ukraine Action Plan.	Resolution of the Verkhovna Rada of Ukraine of 06.02.2003 No. 479-IV	No report available	—	—	—

3	IV	Temporary Special Commission of the Verkhovna Rada of Ukraine to Ensure Parliamentary Oversight over the State Border Regime of Ukraine in the Area of Tuzla Spit.	Resolution of the Verkhovna Rada of Ukraine of 23.10.2003 No. 1235-IV	No report available	_____	_____	_____
4	VI	Temporary Special Commission of the Verkhovna Rada of Ukraine on Reforming the Security Service of Ukraine and its Legislative Support.	Resolution of the Verkhovna Rada of Ukraine of 19.02.2009 No. 1156-VI	Report acknowledged	Resolution of the Verkhovna Rada of Ukraine of 18.06.2010 No. 2361-VI	The Committee on National Security and Defence was appointed as the lead committee for the preparation and finalisation of the draft law on the Security Service of Ukraine (Reg. No. 4839).	The draft law was withdrawn on 2 November 2010.
5	IX	Temporary Special Commission of the Verkhovna Rada of Ukraine on the Legal Status of War Veterans.	Resolution of the Verkhovna Rada of Ukraine of 02.10.2019 No. 137-IX	Preliminary report acknowledged  Final report not accepted	Resolution of the Verkhovna Rada of Ukraine of 03.06.2020 No. 659-IX  Draft Resolution of the Verkhovna Rada of Ukraine of 15.09.2020 No. 4097	Recommendations were provided to the Government to ensure the functioning of war veterans' hospitals.	Resolution of the Verkhovna Rada of Ukraine No. 706-IX of 16.06.2020 "On the Prevention of Suspension of the Functioning of War Veterans' Hospitals During the Implementation of the Second Stage of the Healthcare Reform" was adopted.

6	IX	Temporary Special Commission of the Verkhovna Rada of Ukraine on the Formation and Implementation of the State Policy on Restoration of Territorial Integrity and Sovereignty of Ukraine.	Resolution of the Verkhovna Rada of Ukraine of 17.10.2019 No. 211-IX	No report available	—	—	—
7	IX	Temporary Special Commission of the Verkhovna Rada of Ukraine on Monitoring the Receipt and Use of International Material and Technical Assistance During Martial Law.	Resolution of the Verkhovna Rada of Ukraine of 19.07.2022 No. 2424-IX	Report acknowledged  Report acknowledged	Resolution of the Verkhovna Rada of Ukraine of 20.03.2023 No. 2966-IX  Resolution of the Verkhovna Rada of Ukraine of 13.07.2023 No. 3242-IX	<ul style="list-style-type: none"> <li>– Strengthen cooperation with international partners to ensure transparency and legality in the use of provided international material and technical assistance (IMTA) during martial law.</li> <li>– Accelerate the implementation of programmes and information systems to automate logistics in the AFU, thus building greater trust among international partners.</li> <li>– Consider developing a mechanism for</li> </ul>	<ul style="list-style-type: none"> <li>– An automated defence resource management system was introduced in the AFU based on System Analysis Programme Development.</li> <li>– A new Temporary Special Commission was established to monitor the receipt and use of international material and technical assistance for a one-year term.</li> </ul>

						<p>assessing the value of certain IMTA assets.</p> <p>– Continue parliamentary oversight by establishing a new temporary special commission.</p>	
	IX	<p>Temporary Special Commission of the Verkhovna Rada of Ukraine on International Humanitarian and International Criminal Law in the Context of the Armed Aggression of the Russian Federation Against Ukraine.</p>	<p>Resolution of the Verkhovna Rada of Ukraine of 01.07.2022 No. 2351-IX</p>	<p>Report adopted</p> <p>Report pending consideration</p>	<p>Resolution of the Verkhovna Rada of Ukraine of 23.03.2023 No. 2965-IX</p> <p>Draft Resolution of the Verkhovna Rada of Ukraine No. 9449 of 3006.2023</p>	<p>The Commission registered Draft Law No. 8268 of 05.12.2022 and recommended that the Verkhovna Rada adopt it as a basis.</p>	
8	IX	<p>Temporary Special Commission of the Verkhovna Rada of Ukraine on Preparing and Comprehensive Regulation of Issues Related to Provision of Social Guarantees for War Veterans, Defenders of Ukraine and Members of Their Families, and Families of Fallen (Deceased) Veterans and Defenders of Ukraine.</p>	<p>Resolution of the Verkhovna Rada of Ukraine of 09.08.2023 No. 3308-IX</p>	<p>Report pending consideration</p>	<p>Draft Resolution of the Verkhovna Rada of Ukraine of 08.02.2024 No. 11004</p> <p>Draft Resolution of the Verkhovna Rada of Ukraine No. 11467 of 07.08.2024</p>	<p>—</p>	<p>—</p>

9	IX	Temporary Special Commission of the Verkhovna Rada of Ukraine on the Legal Status, Social Support, and Medical Provision for War Veterans, Service Members, Defenders of Ukraine and Members of Their Families.	Resolution of the Verkhovna Rada of Ukraine of 09.08.2023 No. 3309-IX	Report pending consideration	Draft Resolution of the Verkhovna Rada of Ukraine No. 11005 of 09.02.2024	—	—
10	IX	Temporary Special Commission of the Verkhovna Rada of Ukraine on Monitoring the Receipt and Use of International Material and Technical Assistance.	Resolution of the Verkhovna Rada of Ukraine of 13.07.2023 No. 3242-IX	Preliminary report acknowledged  Report acknowledged	Resolution of the Verkhovna Rada of Ukraine of 23.02.2024 No. 3592-IX  Resolution of the Verkhovna Rada of Ukraine of 16.07.2024 No. 3851-IX	The Report did not include recommendations	
11	IX	Temporary Special Commission of the Verkhovna Rada of Ukraine on the Use of State Budget Funds Allocated for the Construction of Fortification Facilities and Engineering Barriers along the Line of Contact, as well as for the Production and Procurement of Unmanned Aerial Vehicles and Electronic Warfare Equipment for Units of the Armed Forces of Ukraine	Resolution of the Verkhovna Rada of Ukraine of 22.05.2024 No. 3726-IX	Report pending consideration	Draft Resolution of the Verkhovna Rada of Ukraine of 22.11.2024 No. 12229	—	—

		and Other Military Formations Established in Accordance with Ukrainian Law.					
12	IX	Temporary Special Commission of the Verkhovna Rada of Ukraine on Monitoring the Receipt and Use of International Material and Technical Assistance.	Resolution of the Verkhovna Rada of Ukraine of 16.07.2024 No. 3851-IX	—	—	—	—
13	IX	Temporary Special Commission of the Verkhovna Rada of Ukraine on the Legal Status, Medical Care, Psychological Assistance and Social Protection of War Veterans, Service Members and Members of Their Families.	Resolution of the Verkhovna Rada of Ukraine of 30.10.2024 No. 4043-IX	—	—	—	—

## Annex 3

**Temporary Investigative Commissions Whose Activities Concern Matters  
of National Security and Defence**

No.	Convocation	Name of the temporary special commission	Details of the act establishing the commission	Reporting on activities	Details of the act on approval of the report	Outcome of the commission's activities	Status of implementation of the commission's recommendations
1	II	Temporary Investigative Commission to Verify Possible Facts of Unauthorised Arms Trade.	Resolution of the Verkhovna Rada of Ukraine of 18.02.1997 No. 78/97-VR	Preliminary information taken into consideration	Resolution of the Verkhovna Rada of Ukraine of 24.03.1998 No. 211/98-VR	Recommendations: 1) To establish such a commission in the next convocation; 2) To forward the materials of the commission to the President, the Government and the Prosecutor General's Office for appropriate response measures.	A Temporary Investigative Commission of the Verkhovna Rada of Ukraine was established to verify facts of illegal trade in arms and military equipment and their unauthorised transfer to other countries during 1991-1998.  No information available on criminal proceedings initiated.
2	III	Temporary Investigative Commission of the Verkhovna Rada of Ukraine to Verify Facts of Illegal Arms Trade and Unlawful Transfer of Military Property to Other Countries during 1991-1998.	Resolution of the Verkhovna Rada of Ukraine of 15.12.1998 No. 315-XIV	No report available	—	—	—

3	III	Temporary Investigative Commission of the Verkhovna Rada of Ukraine to Investigate Violations of Constitutional Human Rights and Freedoms Related to the Confidentiality of Telephone Conversations.	Resolution of the Verkhovna Rada of Ukraine of 07.03.2002 No. 3072-III	No report available	_____	_____	_____
4	IV	Temporary Investigative Commission of the Verkhovna Rada of Ukraine to Verify Facts of Illegal Arms Trade and Unlawful Transfer of Military Property to Other Countries.	Resolution of the Verkhovna Rada of Ukraine of 11.07.2002 No. 87-IV	Preliminary information taken into consideration	Resolution of the Verkhovna Rada of Ukraine of 16.12.2005 No. 3231-IV	Recommended the Government to conduct an inspection and inform the Verkhovna Rada of its results.  Materials indicating signs of criminal offences were forwarded to the Prosecutor General's Office for verification and appropriate action.	No information available on whether the Government conducted the inspection.  No information available on criminal proceedings initiated.
5	IV	Temporary Investigative Commission of the Verkhovna Rada of Ukraine to Verify the Credibility of Illegal Arms Trade with the Republic of Iraq.	Resolution of the Verkhovna Rada of Ukraine of 17.11.2005 No. 182-IV	No report available	_____		
6	IV	Temporary Investigative Commission of the Verkhovna Rada of Ukraine to Investigate the Circumstances of the	Resolution of the Verkhovna Rada of Ukraine of 21.12.2004 No. 2270-IV	No report available	_____		

		Presidential Decree "On Dismissal of V. Satsiuk from the Position of First Deputy Head of the Security Service of Ukraine".					
7	IV	Temporary Investigative Commission of the Verkhovna Rada of Ukraine to Investigate the Circumstances Surrounding the Organisation of the "Cassette Scandal" and its Impact on the National Security of Ukraine.	Resolution of the Verkhovna Rada of Ukraine of 06.10.2005 No. 2950-IV	No report available	—		
8	V	Temporary Investigative Commission of the Verkhovna Rada of Ukraine to Investigate the Circumstances of the Organisation, Preparation and Issuance by Officials of the Security Service of Ukraine of Unlawful Orders on Wiretapping and Surveillance of Members of Parliament of Ukraine, Judges of the Constitutional Court of Ukraine, General Jurisdiction Courts and Members of the Central Election Commission, and the Execution of These Orders.	Resolution of the Verkhovna Rada of Ukraine of 09.04.2007 No. 910-V	No report available	—		

9	VI	Temporary Investigative Commission of the Verkhovna Rada of Ukraine to Clarify the Circumstances of the Supply of Ukrainian Military Equipment to Georgia with the Aim of Establishing Facts of Violations of Ukrainian Law and International Norms.	Resolution of the Verkhovna Rada of Ukraine of 02.09.2008 No. 344-VI	Report acknowledged	Resolution of the Verkhovna Rada of Ukraine of 19.12.2008 No. 776-VI	Materials sent to the Prosecutor General's Office to take measures for response and assessment of actions by officials of certain state authorities who blocked, ignored and obstructed the commission's activities.	No information available on measures taken.
10	VI	Temporary Investigative Commission of the Verkhovna Rada of Ukraine to Investigate Corrupt Actions by Officials Hindering the Return of 16 Mi-8MT (MTV) Helicopters to the Ground Forces of the Armed Forces of Ukraine, Which Were Leased to the Private Joint-Stock Company "Ukrainian Helicopters".	Resolution of the Verkhovna Rada of Ukraine of 15.01.2009 No. 897-VI	No report available	_____	_____	_____
11	VI	Temporary Investigative Commission of the Verkhovna Rada of Ukraine to Clarify Violations by Officials and Leadership of the Security Service of Ukraine of the Constitution and Laws of Ukraine in the Performance of Their	Resolution of the Verkhovna Rada of Ukraine of 05.03.2009 No. 1079-VI	No report available	_____	_____	_____

		Duties (Regarding Events Surrounding the Functioning of the National Joint Stock Company "Naftogaz of Ukraine" and the Gas Transmission System of Ukraine).					
12	VII	Temporary Investigative Commission of the Verkhovna Rada of Ukraine to Verify the Use of Funds Donated by Citizens of Ukraine for the Support of the Armed Forces of Ukraine and Other Military Formations, as well as State Budget Expenditures Allocated to the Needs of the Armed Forces of Ukraine and Other Military Formations.	Resolution of the Verkhovna Rada of Ukraine of 05.06.2014 No. 312-VII	No report available	_____	_____	_____
13	VII	Temporary Investigative Commission of the Verkhovna Rada of Ukraine to Investigate the Circumstances of the Destruction of a Military Transport Aircraft of the Air Force of the Armed Forces of Ukraine (IL-76) While Landing at Luhansk Airport.	Resolution of the Verkhovna Rada of Ukraine of 17.06.2014 No. 1676-VII	No report available	_____	_____	_____

14	VII	Temporary Investigative Commission of the Verkhovna Rada of Ukraine to Investigate the Circumstances of the Tragic Events that Led to the Death and Capture of Fighters of Volunteer Battalions and Service Members of the Armed Forces of Ukraine and the National Guard of Ukraine near the City of Ilovaisk, Donetsk Region.	Resolution of the Verkhovna Rada of Ukraine of 04.09.2014 No. 1676-VII	No report available	_____	_____	_____
15	VIII	Temporary Investigative Commission of the Verkhovna Rada of Ukraine to Investigate the Circumstances of the Conflict in Zakarpattia Region.	Resolution of the Verkhovna Rada of Ukraine of 14.07.2015 No. 598-VIII	Report not accepted	Draft Resolution of the Verkhovna Rada of Ukraine No. 3135 of 17.09.2015	_____	_____
16	VIII	Temporary Investigative Commission of the Verkhovna Rada of Ukraine to Investigate Facts of Embezzlement in the Armed Forces of Ukraine and the Undermining of State Defence Capabilities Between 2004 and 2017.	Resolution of the Verkhovna Rada of Ukraine of 07.06.2018 No. 2455-VIII	Preliminary report acknowledged  Report not accepted	Resolution of the Verkhovna Rada of Ukraine of 07.06.2018 No. 2647-VIII  Draft Resolution of the Verkhovna Rada of Ukraine of 06.06.2019 No. 10374	In addition to instructions to various state authorities, including the security and defence sector, the commission recommended developing and introducing a draft law amending the Criminal Code of Ukraine to ensure that the statute of limitations does not	Draft Law of Ukraine "On Amendments to the Criminal Code of Ukraine (on the non-application of statutes of limitations to crimes committed for personal gain and illicit enrichment during the Joint Forces Operation (JFO), as well as

						apply in the case of criminal prosecution of persons who have committed crimes that have damaged the state's defence capability, except for crimes against the foundations of national security of Ukraine under Articles 109-114 <sup>(1)</sup> of the Criminal Code of Ukraine, for which the statute of limitations does not apply.	strengthening criminal liability for crimes committed in the execution of the state defence order or the sale of military property)" (reg. No. 1176 of 29.08.2019) was withdrawn from consideration in February 2021.
	IX	Temporary Investigative Commission of the Verkhovna Rada of Ukraine to Investigate the Legality of Changes in Ownership of Information TV Channels and Measures to Counteract the Information Influence of the Russian Federation.	Resolution of the Verkhovna Rada of Ukraine of 17.10.2019 No. 212-IX	Report not accepted	Draft Resolution of the Verkhovna Rada of Ukraine of 17.04.2020 No. 3363	—	—
17	IX	Temporary Investigative Commission of the Verkhovna Rada of Ukraine to Investigate Fires (Explosions) at Ammunition Depots in Ichnia (Chernihiv region), Kalynivka (Vinnytsia region), Balakliia	Resolution of the Verkhovna Rada of Ukraine of 31.10.2019 No. 262-IX	Preliminary report acknowledged	Resolution of the Verkhovna Rada of Ukraine of 30.04.2020 No. 574-IX	Recommended: 1) The Verkhovna Rada to resolve the issue of legislative support to strengthen the guarantees of independence for forensic experts and	No available information on measures taken to implement the commission's recommendations.

		(Kharkiv region), Svatove (Luhansk region), Kryvyi Rih (Dnipropetrovsk region), in the period from 2014 to 2018.				proper implementation of forensic expert activity;  2) The Office of the Prosecutor General to take measures in response to the facts contained in the preliminary report of the Temporary Investigative Commission.	
18	IX	Temporary Investigative Commission of the Verkhovna Rada of Ukraine to Investigate Alleged Unlawful Actions by Government Officials or Other Persons that Could Have Threatened Ukraine's Sovereignty and National Security, Territorial Integrity and Inviolability of Ukraine and Pose a Threat to the National Security of Ukraine.	Resolution of the Verkhovna Rada of Ukraine of 19.05.2021 No. 1454-IX	Preliminary report acknowledged	Resolution of the Verkhovna Rada of Ukraine of 30.11.2021 No. 1911-IX	Recommended that the Office of the Prosecutor General oversee the investigation of criminal proceedings in relation to the issues investigated by the commission.	No information available on the measures taken to implement the commission's recommendations.
19	IX	Temporary Investigative Commission of the Verkhovna Rada of Ukraine to Investigate the Circumstances that Contributed to the	Resolution of the Verkhovna Rada of Ukraine of 01.02.2022 No. 2032-IX	Preliminary report pending consideration	Draft Resolution of the Verkhovna Rada of Ukraine of 01.08.2022 No. 7623	—	—

		Temporary Occupation of the Autonomous Republic of Crimea.					
	IX	Temporary Investigative Commission of the Verkhovna Rada of Ukraine to Investigate Acts of Sexual Violence Committed as a Result of the Armed Aggression of the Russian Federation Against Ukraine.	Resolution of the Verkhovna Rada of Ukraine of 20.09.2022 No. 2602-IX	Report pending consideration	Draft Resolution of the Verkhovna Rada of Ukraine of 18.09.2023 No. 10061		
20	IX	Commission of the Verkhovna Rada of Ukraine to Investigate Possible Violations of Ukrainian Legislation in the Ministry of Defence of Ukraine, the Armed Forces of Ukraine, Other Military Formations Established in Accordance With the laws of Ukraine, and Special Purpose Law Enforcement Agencies, Staffed by Military Personnel.	Resolution of the Verkhovna Rada of Ukraine of 21.09.2023 No. 3393-IX	Report pending consideration	Draft Resolution of the Verkhovna Rada of Ukraine of 21.03.2024 No. 11106  Draft Resolution of the Verkhovna Rada of Ukraine of 23.09.2024 No. 12056	—	—
21	IX	Temporary Investigative Commission of the Verkhovna Rada of Ukraine to Investigate Possible Violations of Ukrainian Legislation on Financing the Treatment and	Resolution of the Verkhovna Rada of Ukraine of 21.09.2023 No. 3397-IX	Preliminary report acknowledged	Resolution of the Verkhovna Rada of Ukraine of 16.07.2024 No. 3850-IX	The report was submitted to relevant public authorities, including those in the national security and defence sector, for further action.	—

		Rehabilitation of Service Members in Healthcare Institutions.		Report acknowledged	Resolution of the Verkhovna Rada of Ukraine of 19.09.2024 No. 3987-IX	Almost all recommendations outlined in the Preliminary Report remain relevant. It was proposed to establish a new commission of a similar nature.	Resolution of the Verkhovna Rada of Ukraine of 19.09.2024 No. 3987-IX
22	IX	Temporary Investigative Commission of the Verkhovna Rada of Ukraine to Investigate Possible Violations of Ukrainian legislation on Financing of Medical Treatment and Rehabilitation of Service Members in Healthcare institutions.	Resolution of the Verkhovna Rada of Ukraine of 19.09.2024 No. 3987-IX	Report not available	—	—	—